SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,

Plaintiff,

v.

DOMINIQUE STRAUSS-KAHN,

Defendant.

Index No.: 307065/2011

NOTICE OF MOTION

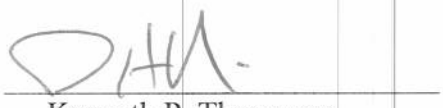
PLEASE TAKE NOTICE that upon the attached Affirmation of Douglas H. Wigdor, dated May 17, 2012, and the exhibits attached thereto, Plaintiff Nafissatou Diallo will move this Court at the Motion Support Office, Room 217, located at 851 Grand Concourse, Bronx, New York 10451, on June 11, 2012 at 9:30 a.m., or as soon thereafter as counsel may be heard, for an Order: (1) so-ordering the issuance of the subpoenas *duces tecum* attached therein to the Affirmation of Douglas H. Wigdor; and (2) granting Plaintiff such other and further relief that this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR § 2214(b), answering affidavits and any other opposition papers, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion. Reply papers, if any, will be served at least one (1) day before the return date of this motion.

Dated: May 18, 2012
New York, NY

Respectfully submitted,

THOMPSON WIGDOR LLP

By: 

Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, New York 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Counsel for Plaintiff

TO: William H. Taylor III
Shawn P. Naunton
ZUCKERMAN SPAEDER LLP
1540 Broadway, Suite 1604
New York, New York 10036
Counsel for Defendant

Hugh W. Campbell
LAW OFFICES OF RODMAN & CAMPBELL, P.C.
1428 East Gun Hill Road
Bronx, New York 10469
Counsel for Defendant

Theresa A. Pauling, Chief Counsel
U.S. Immigration and Customs Enforcement
P.O. Box 3507
New York, New York 10008

New York City Taxi & Limousine Commission
Commissioner David Yassky
33 Beaver Street
New York, NY 10004

Cyrus R. Vance, Jr.
New York County District Attorney's Office
Special Litigation Bureau
One Hogan Place
New York, NY 10013

New York Department of Police
1 Police Plaza
New York, NY 10007

The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003

Office of the Chief Medical Examiner
520 First Avenue
New York, New York 10016

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	Index No.: 307065/2011
Plaintiff,	:	Part IA-19A
v.	:	Hon. Douglas E. McKeon
DOMINIQUE STRAUSS-KAHN,	:	
Defendant.	:	

AFFIRMATION OF DOUGLAS H. WIGDOR IN SUPPORT OF PLAINTIFF'S MOTION FOR ISSUANCE OF COURT ORDERED SUBPOENAS

DOUGLAS H. WIGDOR, an attorney duly admitted to practice before this Court, hereby deposes and states under penalty of perjury, that:

1. I am a member of the bar of this Court and a partner at the law firm Thompson Wigdor LLP. We are counsel for Plaintiff in the above-captioned action against Defendant Dominique Strauss-Kahn ("Defendant" or "Defendant Strauss-Kahn").

2. I submit this affirmation and exhibits attached hereto, along with the accompanying notice of motion, in support of Plaintiff's Motion for Issuance of Court Ordered Subpoenas in accordance with the requirements of Civil Practice Law and Rules ("CPLR") § 2307 ("Section 2307"). The attached subpoenas must be so-ordered by the Court because the subpoenas require the production of documents and information from departments or bureaus of a municipal corporation or of the state or an officer thereof.

3. Pursuant to CPLR § 3101, Plaintiff is entitled to broad discovery including all documents and information relevant to her claims. *See, e.g., Allen v. Crowell-Collier Pub. Co.*, 21 N.Y.2d 403, 406, 235 N.E.2d 430, 432 (1968) (CPLR 3101 should be "interpreted liberally to

require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity").

4. Plaintiff simply seeks documents relevant to her claims and/or defenses against Defendant which may be in the possession of these public entities. The documents requested by Plaintiff are directly relevant to (i) the sexual assault; (ii) the investigation into the sexual assault; (iii) Defendant Strauss-Kahn's motive for committing the sexual assault; (iv) Defendant Strauss-Kahn's defenses to Plaintiff's allegations; and/or (v) Ms. Diallo's defenses to the counterclaims asserted by Defendant Strauss-Kahn.

5. A true and accurate copy of the proposed subpoena duces tecum to the New York County District Attorney's Office is attached hereto as Exhibit A.

6. A true and accurate copy of the proposed subpoena duces tecum to the New York City Police Department is attached hereto as Exhibit B.

7. A true and accurate copy of the proposed subpoena duces tecum to the Port Authority Police Department is attached hereto as Exhibit C.

8. A true and accurate copy of the proposed subpoena duces tecum to the Office of the Chief Medical Examiner is attached hereto as Exhibit D.

9. A true and accurate copy of the proposed subpoena duces tecum to the New York City Taxi and Limousine Commission is attached hereto as Exhibit E.

10. A true and accurate copy of the proposed subpoena duces tecum to the United States Immigration and Customs Enforcement is attached hereto as Exhibit F.

11. Plaintiff will promptly serve these subpoenas on the noticed entities following a Court order permitting service of these subpoenas.

Dated: May 18, 2012
New York, NY

Respectfully submitted,

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, New York 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Counsel for Plaintiff

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,

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Defendant.

Index No.: 307065/2011

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Patrick J. Durkin, being duly sworn deposes and says:

1. I am not a party to the action.

2. I am over 18 years of age.

3. On May 18, 2012, I caused to be served a true and correct copy of Plaintiff's Motion for Issuance of Court Ordered Subpoenas, via U.S. Mail on the following:

William H. Taylor III
Shawn P. Naunton
ZUCKERMAN SPAEDER LLP
1540 Broadway, Suite 1604
New York, New York 10036
Counsel for Defendant

Hugh W. Campbell
Law Offices of Rodman & Campbell, P.C.
1428 East Gun Hill Road
Bronx, New York 10469
Counsel for Defendant

Theresa A. Pauling, Chief Counsel
U.S. Immigration and Customs Enforcement
P.O. Box 3507
New York, New York 10008

New York City Taxi & Limousine Commission
Commissioner David Yassky
33 Beaver Street
New York, NY 10004

Cyrus R. Vance, Jr.
New York County District Attorney's Office
Special Litigation Bureau
One Hogan Place
New York, NY 10013

New York Department of Police
1 Police Plaza
New York, NY 10007

The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003

Office of the Chief Medical Examiner
520 First Avenue
New York, New York 10016

Sworn to before me this
18th day of May, 2012

Notary Public

LAWRENCE MICHAEL PEARSON
Notary Public, State of New York
No. 02PE6225600
Qualified in New York County
Commission Expires July 26, 2014

Patrick J. Durkin

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

---------- x

NAFISSATOU DIALLO,

Plaintiff,

v.

DOMINIQUE STRAUSS-KAHN,

Defendant.

---------- x

Index No.: 307065/11

SUBPOENA DUCES TECUM

TO: Cyrus R. Vance, Jr.
New York County District Attorney's Office
Special Litigation Bureau
One Hogan Place
New York, NY 10013

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**NY County DA's Office**" refers to the New York County District Attorney's Office, and includes each of the New York County District Attorney's Office's employees, attorneys, agents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. The term "**Hotel Sofitel New York**" refers to the Sofitel hotel located at 45 West 44th Street, New York, New York 10036 including all agents and employees.

5. "**Person**" means any natural person, business, legal or governmental association or entity.

6. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored information, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in NY County DA's Office's possession, custody or control, or in the possession, custody or control of NY County DA's Office's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or NY County DA's Office's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by NY County DA's Office to exist.

7. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

8. "**Including**" shall mean including without limitation.

9. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

10. When referring to a person, **"to identify"** means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

11. "**All**" and "**Each**" shall be construed as all and each, respectively.

12. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

13. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, NY County DA's Office or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, NY County DA's Office is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after NY County DA's Office becomes aware of any such document(s).

2. In responding to these Requests, NY County DA's Office must furnish all documents which are available, including documents in the possession, custody, or control of NY County DA's Office's attorneys, investigators, or anyone else acting for or on NY County DA's Office's behalf, and not merely those documents held by NY County DA's Office. If NY County DA's Office is unaware of the existence of any documents responsive to a Request contained herein, NY County DA's Office should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, NY County DA's Office shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall

be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, NY County DA's Office shall identify each such document with a sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

   (a) the name and address of the person(s) who possess or control the document and each copy of the document;

   (b) the name of the author of the document;

   (c) the name of the sender of the document if different from the author;

   (d) the name of the person(s) to whom copies were sent or otherwise made available;

   (e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

   (f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

   (g) the date of the document;

   (h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

   (i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in NY County DA's Office's possession, custody or control, provide the following information:

   (a) the date of the document;

   (b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

   (c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left NY County DA's Office's possession, custody, or control; and

   (d) the circumstances surrounding the loss of the document or the reason for its destruction.

APPENDIX B

DOCUMENTS TO PRODUCE

1. The entire file maintained and/or prepared by the NY County DA's Office concerning the investigation and/or the criminal prosecution of Defendant Strauss-Kahn, including any physical evidence collected or maintained by the NY County DA's Office.

2. All notes taken by any employee or agent of the NY County DA's Office concerning Defendant Strauss-Kahn and/or the investigation and/or the criminal prosecution of Defendant Strauss-Kahn.

3. All documents concerning any communication between the NY County DA's Office and any individual and/or entity concerning Defendant Strauss-Kahn and/or the criminal prosecution of Defendant Strauss-Kahn.

4. All documents that were provided to and/or received by the NY County DA's Office in response to any request for documents and/or information (including, but not limited to, subpoenas and/or informal information requests) in connection with the prosecution of Defendant Strauss-Kahn.

5. All audio tapes from each and every phone call between Plaintiff and Amara Tarawally that occurred while Mr. Tarawally was in the custody of the Eloy Federal Contract Facility in Eloy, Arizona, including, but not limited to, any telephone conversations that took place between them on May, 15, 2011.

6. All translations and/or interpretations of each and every phone call between Plaintiff and Amara Tarawally that occurred while Mr. Tarawally was in the custody of the Eloy Federal Contract Facility in Eloy, Arizona, including, but not limited to, all translations of telephone conversations that took place between them on May, 15, 2011.

7. All documents concerning the grand jury hearing and indictment of Defendant Strauss-Kahn, including, but not limited to, grand jury notes, minutes, and transcripts.

8. All documents concerning the identities of the "immediate supervisor" and "more senior supervisor" referenced in page 6 of the Recommendation for Dismissal, dated August 22, 2011.

9. All documents concerning the NY County DA's Office's statement that "evidence gathered in our post-indictment investigation" had "severely undermined" Plaintiff's reliability as a witness in the criminal case against Defendant Strauss-Kahn, as referenced in page 2 of the Recommendation for Dismissal, dated August 22, 2011.

10. All documents concerning the NY County DA's Office's statement that "[i]n virtually every substantive interview with prosecutors, despite entreaties to simply be truthful, she has not been truthful, on matters great and small," as referenced in page 2 of the Recommendation for Dismissal dated August 22, 2011, including, but not limited to, all interview notes and memoranda regarding such interviews.

11. All documents concerning the NY County DA's Office's statement that Plaintiff's "longstanding pattern of untruthfulness predates [her] contact with this Office," as referenced in page 2 of the Recommendation for Dismissal, dated August 22, 2011.

12. All documents concerning the interviews of Plaintiff by detectives assigned to the New York Police Department's "Manhattan Special Victims Squad and by other experienced investigators and prosecutors, including members of the Office's Sex Crimes Unit," as referenced in page 7 of the NY County DA's Office's Recommendation for Dismissal, dated August 22, 2011, including, but not limited to, all interview notes and memoranda regarding such interviews.

13. All documents concerning the NY County DA's Office's statement that "available evidence indicated that [Plaintiff] had no foreknowledge of [Defendant Strauss-Kahn's] stay at the hotel that might have enabled her to orchestrate an encounter between them," as referenced in page 8 of the Recommendation for Dismissal, dated August 22, 2011.

14. All documents concerning the NY County DA's Office's statement that "[o]ther evidence was consistent with a non-consensual sexual encounter between the defendant and [Plaintiff]," as referenced in page 8 of the Recommendation for Dismissal, dated August 22, 2011.

15. All documents concerning the NY County DA's Office's interviews of Plaintiff's supervisors, "both of whom were interviewed by a prosecutor within the first 48 hours of the investigation," as referenced in page 8 of the Recommendation for Dismissal, dated August 22, 2011.

16. All documents concerning the NY County DA's Office's interviews of any other employee of the Hotel Sofitel New York who spoke with Ms. Diallo regarding her accusations against Defendant Strauss-Kahn.

17. All documents concerning the identities of the "hotel employees who assisted [Defendant Strauss-Kahn] in the lobby when he checked out" and the "hotel front office manager," as referenced in page 9 of the Recommendation for Dismissal, dated August 22, 2011.

18. All documents concerning the NY County DA's Office's interviews of "hotel employees who assisted [Defendant Strauss-Kahn] in the lobby when he checked out" and the "hotel front office manager," as referenced in page 9 of the Recommendation for Dismissal, dated August 22, 2011.

19. All documents concerning the "physical examinations of [Plaintiff] and [Defendant Strauss-Kahn]," as referenced in page 9 of the Recommendation for Dismissal, dated August 22, 2011.

20. All documents concerning the identities of the "[p]olice officers, detectives, civilian witnesses, medical personnel, forensic scientists, and medical experts," referenced in page 9 of the Recommendation for Dismissal, dated August 22, 2011.

21. All documents concerning the NY County DA's Office's interviews of "[p]olice officers, detectives, civilian witnesses, medical personnel, forensic scientists, and medical experts," as referenced in page 9 of the Recommendation for Dismissal, dated August 22, 2011.

22. All documents concerning the "records of electronic communication carriers, financial records, business records, medical records, video surveillance recordings from inside the Hotel Sofitel New York, police department records, and records of other law enforcement and governmental agencies" gathered and analyzed, as referenced in pages 9 and 10 of the Recommendation for Dismissal, dated August 22, 2011.

23. All documents concerning the NY County DA's Office's investigation of the case from July 1, 2011 through August 22, 2011, "including interviewing further civilian witnesses, scientists, and medical experts; seeking and reviewing additional records; examining additional forensic results provided by OCME; and evaluating additional information provided by [Plaintiff's] lawyer and defense counsel," as referenced in page 10 of the Recommendation for Dismissal, dated August 22, 2011.

24. All documents concerning the NY County DA's Office's statement that Plaintiff "has given irreconcilable accounts of what happened immediately after her encounter with [Defendant Strauss-Kahn]," as referenced in page 11 of the Recommendation for Dismissal, dated August 22, 2011.

25. All documents concerning the identity of the "highly-experienced physician who is an expert in the field of sexual assault forensic examinations," who was retained by the NY County DA's Office, as referenced in page 20 of the Recommendation for Dismissal, dated August 22, 2011.

26. All documents concerning the findings and/or conclusions reached by the "highly-experienced physician who is an expert in the field of sexual assault forensic examinations," who was retained by the NY County DA's Office, as referenced in page 20 of the Recommendation for Dismissal, dated August 22, 2011.

27. All documents concerning the identity of the "prominent expert orthopedic surgeon," who was retained by the NY County DA's Office, as referenced in page 22 of the Recommendation for Dismissal, dated August 22, 2011.

28. All documents concerning the findings and/or conclusions reached by the "prominent expert orthopedic surgeon," who was retained by the NY County DA's Office, as referenced in page 22 of the Recommendation for Dismissal, dated August 22, 2011.

29. All documents concerning "key card records" and "telephone records," as referenced in page 23 of the Recommendation for Dismissal, dated August 22, 2011.

30. All documents concerning the identity of the "prompt outcry witnesses," as referenced in page 24 of the Recommendation for Dismissal, dated August 22, 2011.

31. All documents concerning the NY County DA's Office's interviews of the "prompt outcry witnesses," as referenced in page 24 of the Recommendation for Dismissal, dated August 22, 2011.

32. All documents concerning the identity of every potential trial witness identified by the NY County DA's Office during the prosecution of Defendant Strauss-Kahn.

33. All documents concerning the NY County DA's Office's notes from interviews of Plaintiff at any time from May 14, 2011 to the present.

34. All forensic test results and/or analyses reviewed by the NY County DA's Office during the prosecution and/or investigation of Defendant Strauss-Kahn.

35. All documents concerning any statements made by the NY County DA's Office to the press and/or media, whether on or off "the record," and/or communications between the NY County DA's Office and the press and/or media, whether on or off "the record," concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

36. All documents concerning the investigation into the leak of information to the New York Times regarding the telephone call(s) between Plaintiff and Amara Tarawally, including, but not limited to, the identity of the New York Times' source.

37. All revisions to and drafts of the NY County DA's Office's Recommendation for Dismissal, dated August 22, 2011.

38. All documents concerning communications with any individual and/or entity outside of the NY County DA's Office regarding the drafting and/or contents of the Recommendation for Dismissal, dated August 22, 2011.

39. All documents concerning communications between the NY County DA's Office and any individual and/or entity regarding Tristane Banon.

40. All documents concerning the identity of the blonde woman in the video.

41. All documents concerning the identities of any other claimed victims of sexual assault inflicted by Defendant Strauss-Kahn.

42. All documents and/or communications concerning investigation into and/or evidence of Defendant Strauss-Kahn's participation in a prostitution ring and/or commission of aggravated pimping.

43. All communications by and/or between the NY County DA's Office and Lanny Davis, the Hotel Sofitel New York and/or Accor Hotels concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

44. All documents sent to and/or received from any state or federal government agency, including, but not limited to, the United States Immigration and Customs Enforcement, the United States Department of State and/or the United States Treasury Department, concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

45. All documents sent to and/or received from any foreign and/or international entity, including, but not limited to, the International Monetary Fund, the French Embassy and/or the French government concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

46. All documents concerning the contents of Defendant Strauss-Kahn's cellular phone, iPad and/or any other personal communication device.

47. All photographs taken of Defendant Strauss-Kahn while in custody.

48. All photographs of Room 2806 at the Sofitel Hotel New York taken at any time from May 14, 2011 to the present.

49. All documents, including cellular phone records, concerning communications by and/or between the NY County DA's Office and Jim Dwyer, William Rashbaum, John Eligon and/or any other employee of the New York Times concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

50. All documents concerning any allegations and/or evidence that Plaintiff worked as a prostitute at any time, including, but not limited to, while she lived under the supervision of the NY County DA's Office.

51. All documents concerning communications by and/or between the NY County DA's Office and any civil action and/or women's rights groups concerning Defendant Strauss-Kahn, Plaintiff, Plaintiff's civil suit against Defendant Strauss-Kahn and/or the criminal case against Defendant Strauss-Kahn.

52. All documents concerning the August 5, 2011 letter from the NY County DA's Office to Kenneth P. Thompson, including, but not limited to, all communications between the NY County DA's Office and Defendant Strauss-Kahn and/or his attorneys regarding the contents of this letter.

53. All documents and/or communications between the NY County DA's Office and Robert Morgenthau concerning Defendant Strauss-Kahn, Plaintiff and/or the criminal case against Defendant Strauss-Kahn.

54. All communications by and/or between the NY County DA's Office, including, but not limited to, Cy Vance and Linda Fairstein concerning Defendant Strauss-Kahn, Plaintiff, the criminal case against Defendant Strauss-Kahn and/or the Recommendation for Dismissal, dated August 22, 2011.

55. All documents concerning conversations, meetings and/or communications between the NY County DA's Office and Defendant Strauss-Kahn's attorneys, including, but not limited to, any notes taken at these meetings and the dates of these meetings.

56. All documents concerning the identity of the blonde-haired woman pictured in the Hotel Sofitel New York surveillance videos exiting the hotel at approximately 3:56 a.m. on the morning of May 14, 2011.

57. All documents concerning the investigation by the NY County DA's Office into any prior incidents of violent sexual conduct exhibited by Defendant Strauss-Kahn, as referenced to the Court by Assistant District Attorney John A. McConnell, Esq. at the May 16, 2011 bail hearing for Defendant Strauss-Kahn.

58. All documents concerning each and every measure taken by the NY County DA's Office to implement Karen Friedman Agnifilo's recusal from the investigation into and the prosecution of Defendant Strauss-Kahn, including, but not limited to, all steps taken by the NY County DA's Office to isolate and/or quarantine Ms. Friedman Agnifilo from documents concerning the investigation and/or employees involved in the investigation.

59. All documents concerning internal communications from the NY County DA's Office to its employees, including, but not limited to, memorandums and/or emails, concerning Ms. Friedman Agnifilo's recusal from the investigation into and the prosecution of Defendant Strauss-Kahn.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	Index No.: 307065/11
Plaintiff,	:	
v.	:	**SUBPOENA DUCES TECUM**
DOMINIQUE STRAUSS-KAHN,	:	
Defendant.	:	

TO: New York Department of Police
1 Police Plaza
New York, NY 10007

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**NYPD**" refers to the New York Police Department, and includes each of the New York Police Department's officers, employees, attorneys, agents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. "**Person**" means any natural person, business, legal or governmental association or entity.

5. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored in formation, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in NYPD's possession, custody or control, or in the possession, custody or control of NYPD's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or NYPD's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by NYPD to exist.

6. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

7. "**Including**" shall mean including without limitation.

8. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

9. When referring to a person, "**to identify**" means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

10. "**All**" and "**Each**" shall be construed as all and each, respectively.

11. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

12. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, NYPD or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, NYPD is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after NYPD becomes aware of any such document(s).

2. In responding to these Requests, NYPD must furnish all documents which are available, including documents in the possession, custody, or control of NYPD's attorneys, investigators, or anyone else acting for or on NYPD's behalf, and not merely those documents held by NYPD. If NYPD is unaware of the existence of any documents responsive to a Request contained herein, NYPD should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, NYPD shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, NYPD shall identify each such document with a

sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

(a) the name and address of the person(s) who possess or control the document and each copy of the document;

(b) the name of the author of the document;

(c) the name of the sender of the document if different from the author;

(d) the name of the person(s) to whom copies were sent or otherwise made available;

(e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

(f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

(g) the date of the document;

(h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

(i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in NYPD's possession, custody or control, provide the following information:

(a) the date of the document;

(b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

(c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left NYPD's possession, custody, or control; and

(d) the circumstances surrounding the loss of the document or the reason for its destruction.

APPENDIX B

DOCUMENTS TO PRODUCE

1. The entire investigative file maintained and/or prepared by the NYPD concerning the investigation regarding the criminal charges against Defendant Strauss-Kahn, including but not limited to, all officer memo books, Form DD-5's, reports, memoranda, and notes.

2. All documents concerning the investigation regarding the criminal charges against Defendant Strauss-Kahn that is not part of the "official" investigative file, including but not limited to informal files and officer and/or detective desk files.

3. All documents concerning the identity of each and every officer and detective involved in and/or assigned to the investigation regarding the criminal charges against Defendant Strauss-Kahn.

4. All evidence collected and/or obtained relating to the criminal charges against Defendant Strauss-Kahn, including, but not limited to, any items recovered from Room 2806 of the Hotel Sofitel New York located at 45 West 44th Street, New York, New York 10036, (The "Sofitel"), any items containing Defendant Strauss-Kahn's DNA and any items seized from Ms. Diallo, including her work uniform dress, pantyhose, and panties.

5. All documents provided to Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding the criminal charges against Defendant Strauss-Kahn.

6. All documents provided to Defendant Strauss-Kahn, and/or Defendant Strauss-Kahn's attorneys or affiliates regarding Plaintiff's civil case against Defendant Strauss-Kahn.

7. All documents produced by the NYPD in response to any subpoena in connection with the criminal charges against Defendant Strauss-Kahn.

8. All documents produced by the NYPD in response to any subpoena in connection with Plaintiff's civil case against Defendant Strauss-Kahn.

9. All communications between the NYPD and Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding Defendant Strauss-Kahn.

10. Any notes and/or reports prepared by the officers or detectives who responded to the Sofitel on May 14, 2011 and interviewed Ms. Diallo.

11. All documents concerning any statements made by the NYPD to the press and/or media, whether on or off "the record," and/or communications between the NYPD and the press and/or media, whether on or off "the record," concerning Defendant Strauss-Kahn, Plaintiff and/or the events that took place in Room 2806 on May 14, 2011 that led to Defendant Strauss-Kahn's arrest.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO, Plaintiff, v. DOMINIQUE STRAUSS-KAHN, Defendant.	Index No.: 307065/11 **SUBPOENA DUCES TECUM**

TO: The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**PAPD**" refers to the Port Authority Police Department, and includes each of the Port Authority Police Department's officers, employees, attorneys, agents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. "**Person**" means any natural person, business, legal or governmental association or entity.

5. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored information, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in Port Authority Police Department's possession, custody or control, or in the possession, custody or control of Port Authority Police Department's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or Port Authority Police Department's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by Port Authority Police Department to exist.

6. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

7. "**Including**" shall mean including without limitation.

8. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

9. When referring to a person, "**to identify**" means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

10. "**All**" and "**Each**" shall be construed as all and each, respectively.

11. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

12. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, Port Authority Police Department or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, Port Authority Police Department is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after Port Authority Police Department becomes aware of any such document(s).

2. In responding to these Requests, Port Authority Police Department must furnish all documents which are available, including documents in the possession, custody, or control of Port Authority Police Department's attorneys, investigators, or anyone else acting for or on Port Authority Police Department's behalf, and not merely those documents held by Port Authority Police Department. If Port Authority Police Department is unaware of the existence of any documents responsive to a Request contained herein, Port Authority Police Department should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, Port Authority Police Department shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents,

whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, Port Authority Police Department shall identify each such document with a sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

   (a) the name and address of the person(s) who possess or control the document and each copy of the document;

   (b) the name of the author of the document;

   (c) the name of the sender of the document if different from the author;

   (d) the name of the person(s) to whom copies were sent or otherwise made available;

   (e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

   (f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

   (g) the date of the document;

   (h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

   (i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in Port Authority Police Department's possession, custody or control, provide the following information:

   (a) the date of the document;

   (b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

   (c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left Port Authority Police Department's possession, custody, or control; and

   (d) the circumstances surrounding the loss of the document or the reason for its destruction.

APPENDIX B

DOCUMENTS TO PRODUCE

1. The entire investigative file created, maintained and/or prepared by the PAPD concerning the investigation into the criminal charges against Defendant Strauss-Kahn.

2. All documents concerning the identity of each and every officer and detective who participated in the arrest of Defendant Strauss-Kahn or in the investigation of charges Ms. Diallo made against him.

3. All officer and/or detective notes and/or memo books from the arrest of Defendant Strauss-Kahn and/or the investigation concerning the criminal charges against Defendant Strauss-Kahn.

4. All evidence collected during the investigation concerning the criminal charges against Defendant Strauss-Kahn.

5. All documents provided to Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding the criminal charges against Defendant Strauss-Kahn.

6. All documents provided to Defendant Strauss-Kahn, and/or Defendant Strauss-Kahn's attorneys or affiliates regarding Plaintiff's civil case against Defendant Strauss-Kahn.

7. All documents produced by the PAPD in response to any subpoena issued in connection with the criminal charges against Defendant Strauss-Kahn.

8. All documents produced by the PAPD in response to any subpoena issued in connection with Plaintiff's civil case against Defendant Strauss-Kahn.

9. All communications between the PAPD and Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding Defendant Strauss-Kahn and/or Plaintiff.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	Index No.: 307065/11
Plaintiff,	:	
v.	:	**SUBPOENA DUCES TECUM**
DOMINIQUE STRAUSS-KAHN,	:	
Defendant.	:	

TO: Office of the Chief Medical Examiner
520 First Avenue
New York, New York 10016

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**OCME**" refers to the New York City Office of the Chief Medical Examiner, and includes each of to the New York City Office of the Chief Medical Examiner's employees, corporate parents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. The term "**Hotel Sofitel New York**" refers to the Sofitel hotel located at 45 West 44th Street, New York, New York 10036 including all agents and employees.

5. The term **"Room 2806**" refers to Room 2806 in the Hotel Sofitel New York.

6. "**Person**" means any natural person, business, legal or governmental association or entity.

7. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored information, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in the the OCME's possession, custody or control, or in the possession, custody or control of the OCME's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or the OCME's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by the OCME to exist.

8. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

9. "**Including**" shall mean including without limitation.

10. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

11. When referring to a person, **"to identify"** means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

12. "**All**" and "**Each**" shall be construed as all and each, respectively.

13. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

14. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, the OCME or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, the OCME is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after the OCME becomes aware of any such document(s).

2. In responding to these Requests, the OCME must furnish all documents which are available, including documents in the possession, custody, or control of the OCME's attorneys, investigators, or anyone else acting for or on the OCME's behalf, and not merely those documents held by the OCME. If the OCME is unaware of the existence of any documents responsive to a Request contained herein, the OCME should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, the OCME shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be

left so attached. Documents that are segregated or separated from other documents, whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, the OCME shall identify each such document with a sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

   (a) the name and address of the person(s) who possess or control the document and each copy of the document;

   (b) the name of the author of the document;

   (c) the name of the sender of the document if different from the author;

   (d) the name of the person(s) to whom copies were sent or otherwise made available;

   (e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

   (f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

   (g) the date of the document;

   (h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

   (i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in the OCME's possession, custody or control, provide the following information:

   (a) the date of the document;

   (b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

   (c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left the OCME's possession, custody, or control; and

   (d) the circumstances surrounding the loss of the document or the reason for its destruction.

APPENDIX B

DOCUMENTS TO PRODUCE

1. All documents concerning forensic testing and/or analysis conducted on evidence and/or in Room 2806 of the Hotel Sofitel New York concerning Plaintiff and/or Defendant Strauss-Kahn.

2. All documents provided to Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding the criminal charges against Defendant Strauss-Kahn.

3. All documents provided to Defendant Strauss-Kahn, and/or Defendant Strauss-Kahn's attorneys or affiliates regarding Plaintiff's civil case against Defendant Strauss-Kahn.

4. All documents produced by the OCME in response to any subpoena issued in connection with the criminal charges against Defendant Strauss-Kahn.

5. All documents produced by the OCME in response to any subpoena issued in connection with the civil case against Defendant Strauss-Kahn.

6. All communications between the OCME and Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding Defendant Strauss-Kahn and/or Plaintiff.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	Index No.: 307065/11
Plaintiff,	:	
v.	:	**SUBPOENA DUCES TECUM**
DOMINIQUE STRAUSS-KAHN,	:	
Defendant.	:	

TO: New York City Taxi & Limousine Commission
Commissioner David Yassky
33 Beaver Street
New York, NY 10004

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**New York City Taxi and Limousine Commission**" refers to the New York City Taxi and Limousine Commission, and includes each of the New York City Taxi and Limousine Commission's employees, drivers, agents, receptionists, corporate parents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. The term "**Hotel Sofitel New York**" refers to the Sofitel hotel located at 45 West 44th Street, New York, New York 10036 including all agents and employees.

5. "**Person**" means any natural person, business, legal or governmental association or entity.

6. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored information, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in New York City Taxi and Limousine Commission's possession, custody or control, or in the possession, custody or control of New York City Taxi and Limousine Commission's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or New York City Taxi and Limousine Commission's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by New York City Taxi and Limousine Commission to exist.

7. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

8. "**Including**" shall mean including without limitation.

9. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

10. When referring to a person, "**to identify**" means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

11. "**All**" and "**Each**" shall be construed as all and each, respectively.

12. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

13. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, New York City Taxi and Limousine Commission or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, New York City Taxi and Limousine Commission is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after New York City Taxi and Limousine Commission becomes aware of any such document(s).

2. In responding to these Requests, New York City Taxi and Limousine Commission must furnish all documents which are available, including documents in the possession, custody, or control of New York City Taxi and Limousine Commission's attorneys, investigators, or anyone else acting for or on New York City Taxi and Limousine Commission's behalf, and not merely those documents held by New York City Taxi and Limousine Commission. If New York City Taxi and Limousine Commission is unaware of the existence of any documents responsive to a Request contained herein, New York City Taxi and Limousine Commission should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, New York City Taxi and Limousine Commission shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the

document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, New York City Taxi and Limousine Commission shall identify each such document with a sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

   (a) the name and address of the person(s) who possess or control the document and each copy of the document;

   (b) the name of the author of the document;

   (c) the name of the sender of the document if different from the author;

   (d) the name of the person(s) to whom copies were sent or otherwise made available;

   (e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

   (f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

   (g) the date of the document;

   (h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

   (i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in New York City Taxi and Limousine Commission's possession, custody or control, provide the following information:

   (a) the date of the document;

   (b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

   (c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left New York City Taxi and Limousine Commission's possession, custody, or control; and

APPENDIX B

DOCUMENTS TO PRODUCE

1. All trip sheets for any taxi and/or limousine that picked up a passenger at the Hotel Sofitel New York located at 45 West 44th Street, New York, New York 10036 (The "Sofitel") on May 14, 2011 between 12:00 p.m. and 1:00 p.m.

2. The identity of any driver that picked up a passenger at the Sofitel on May 14, 2011 between 12:00 p.m. and 1:00 p.m.

3. All trip sheets from any taxi and/or limousine that picked up a passenger within two blocks from McCormick & Schmick's Restaurant, located at 1285 Avenue of the Americas, New York, New York 10019 ("McCormick & Schmick's Restaurant") and drove the passenger to John F. Kennedy Airport on the afternoon of May 14, 2011.

4. The identity of any driver that picked up a passenger within two blocks from McCormick & Schmick's Restaurant on May 14, 2011 between 1:00p.m. and 4:00p.m.

5. All documents provided to Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding the criminal charges against Defendant Strauss-Kahn.

6. All documents provided to Defendant Strauss-Kahn, and/or Defendant Strauss-Kahn's attorneys or affiliates regarding Plaintiff's civil case against Defendant Strauss-Kahn.

7. All documents produced by the New York City Taxi and Limousine Commission in response to any subpoena issued in connection with the criminal charges against Defendant Strauss-Kahn.

8. All documents produced by the New York City Taxi and Limousine Commission in response to any subpoena issued in connection with Plaintiff's civil case against Defendant Strauss-Kahn.

9. All communications between the New York City Taxi and Limousine Commission and Defendant Strauss-Kahn, Defendant Strauss-Kahn's affiliates, Defendant Strauss-Kahn's attorneys, and/or the New York County District Attorney's Office regarding Defendant Strauss-Kahn and/or Plaintiff.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	Index No.: 307065/11
Plaintiff,	:	
v.	:	**SUBPOENA DUCES TECUM**
DOMINIQUE STRAUSS-KAHN,	:	
Defendant.	:	

TO: Theresa A. Pauling, Chief Counsel
U.S. Immigration and Customs Enforcement
P.O. Box 3507
New York, New York 10008

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules Article 23 and the definitions and instructions in Appendix A (attached hereto), that all businesses and excuses being laid aside, to produce to Thompson Wigdor LLP, 85 Fifth Avenue, Fifth Floor, New York, NY, 10003 in the City of New York, County of New York, on the __ day of _____ 2012, at nine o'clock in the morning, documents pursuant to the demands in Appendix B ("the Requests").

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

DATED: New York, New York
May 18, 2012

THOMPSON WIGDOR LLP

By: _____
Kenneth P. Thompson
Douglas H. Wigdor

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845

Attorneys for Plaintiff

SO ORDERED:

_____
HON. DOUGLAS E. MCKEON J.S.C.

APPENDIX A

DEFINITIONS

1. "**Plaintiff**" or "**Ms. Diallo**" refers to Plaintiff Nafissatou Diallo.

2. "**Defendant**" or "**Defendant Strauss-Kahn**" refers to Defendant Dominique Strauss-Kahn.

3. The term "**U.S. Immigration and Customs Enforcement**" refers to United States Immigration and Customs Enforcement, and includes each of the United States Immigration and Customs Enforcement's employees, agents, corporate parents, predecessors, successors, subsidiaries, and affiliates (including any employees, officers, directors of such partners, corporate parent(s), predecessors, successors, subsidiaries and/or affiliates).

4. "**Person**" means any natural person, business, legal or governmental association or entity.

5. The terms "**record**" or "**records**" "**document**" or "**documents**" shall mean any written, recorded, filmed or graphic matter, or electronically stored information, whether produced, reproduced or on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media, including, but not limited to, memoranda, notes, minutes, records, e-mails, voicemails, instant messages, text messages, blackberry messages, photographs, correspondence, telegrams, diaries, bookkeeping entries, telephone logs, financial statements, tax returns, checks, check stubs, bank records, pay stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, contracts, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise, and drafts, which are in U.S. Immigration and Customs Enforcement's possession, custody or control, or in the possession, custody or control of U.S. Immigration and Customs Enforcement's present or former agents, representatives, attorneys, physicians or other health care professionals, or any and all persons acting on their or U.S. Immigration and Customs Enforcement's behalf, including documents at any time in the possession, custody or control of such individuals or entities or known by U.S. Immigration and Customs Enforcement to exist.

6. "**Concerning**" means relating to, referring to, describing, evidencing, constituting, supporting or contradicting, in whole or in part.

7. "**Including**" shall mean including without limitation.

8. When referring to documents, "**to identify**" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

9. When referring to a person, "**to identify**" means to give, to the extent known, the person's full name, present or last known address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment.

10. "**All**" and "**Each**" shall be construed as all and each, respectively.

11. "**And**" and "**Or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

12. The use of any singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The following Requests constitute a continuing demand for production of documents and information to the fullest extent permitted by law. Accordingly, if at some point after the service of these Requests, U.S. Immigration and Customs Enforcement or anyone acting on its behalf obtains or becomes aware of additional documents pertaining to these Requests, or a document is located or is created which is responsive to one of the Requests herein, U.S. Immigration and Customs Enforcement is required to provide any such additional document(s) by way of supplemental responses. Such supplemental responses are to be served upon Plaintiff within twenty (20) days after U.S. Immigration and Customs Enforcement becomes aware of any such document(s).

2. In responding to these Requests, U.S. Immigration and Customs Enforcement must furnish all documents which are available, including documents in the possession, custody, or control of U.S. Immigration and Customs Enforcement's attorneys, investigators, or anyone else acting for or on U.S. Immigration and Customs Enforcement's behalf, and not merely those documents held by U.S. Immigration and Customs Enforcement. If U.S. Immigration and Customs Enforcement is unaware of the existence of any documents responsive to a Request contained herein, U.S. Immigration and Customs Enforcement should expressly so indicate, answer to the extent possible and identify any person(s) who may have additional documents to complete the response.

3. Each Request shall be responded to fully, unless, it is in good faith objected to, in which event the reasons for the objections shall be stated with specificity. If an objection pertains to only a portion of a Request, or to a word, phrase or clause contained therein, U.S. Immigration and Customs Enforcement shall state its objection to that portion only and respond to the remainder of the Request.

4. The original or one copy of each document is requested to be produced. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

5. Documents shall be produced as they are kept in the ordinary course of business. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents,

whether by use of binders, files, sub-files, or by dividers, tabs, or any other method, shall be left so segregated or separated. All labels or markings on any such binders, files, sub-files, dividers, tabs, or folders shall be produced.

6. If any document is withheld from production on the alleged grounds of privilege and/or the attorney work product doctrine, U.S. Immigration and Customs Enforcement shall identify each such document with a sufficient description to enable the Court to rule on the validity of the claim of privilege and/or attorney work product doctrine, which includes at least the following information:

   (a) the name and address of the person(s) who possess or control the document and each copy of the document;

   (b) the name of the author of the document;

   (c) the name of the sender of the document if different from the author;

   (d) the name of the person(s) to whom copies were sent or otherwise made available;

   (e) the name of any person(s) known to have seen or have possession of a copy of the document if not identified above;

   (f) the business affiliation and job title of every person named in (a), (b), (c), (d) and (e) above;

   (g) the date of the document;

   (h) a brief description of the nature (e.g., letter, memorandum) and subject matter of the document; and

   (i) the basis for withholding the document.

7. If any document that would have been responsive to these Requests has been destroyed or is no longer in U.S. Immigration and Customs Enforcement's possession, custody or control, provide the following information:

   (a) the date of the document;

   (b) the names and job titles of the preparer(s), sender(s), and recipient(s) of the documents;

   (c) the date of and the identity of the person responsible for its destruction, loss, transfer, or other act or omission by which the document left U.S. Immigration and Customs Enforcement's possession, custody, or control; and

   (d) the circumstances surrounding the loss of the document or the reason for its destruction.

APPENDIX B

DOCUMENTS TO PRODUCE

1. All audio tapes from each and every phone call between Plaintiff and Amara Tarawally that occurred while Mr. Tarawally has been detained in the Eloy Federal Contract Facility in Eloy, Arizona, including, but not limited to, any telephone conversations that took place between them on May 15, 2011.

2. All transcripts of each and every phone call between Plaintiff and Amara Tarawally that occurred while Mr. Tarawally has been detained in the Eloy Federal Contract Facility in Eloy, Arizona, including, but not limited to, any transcripts from the telephone conversations that took place between them on May 15, 2011.

3. All documents provided to Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys and affiliates, and/or the New York County District Attorney's Office regarding the criminal charges against Defendant Strauss-Kahn.

4. All documents provided to Defendant Strauss-Kahn, and/or Defendant Strauss-Kahn's attorneys and affiliates regarding Plaintiff's civil case against Defendant Strauss-Kahn.

5. All documents produced by the U.S. Immigration and Customs Enforcement in response to any subpoena issued in connection with the criminal charges against Defendant Strauss-Kahn.

6. All documents produced by the U.S. Immigration and Customs Enforcement in response to any subpoena issued in connection with Plaintiff's civil case against Defendant Strauss-Kahn.

7. All communications between the U.S. Immigration and Customs Enforcement and Defendant Strauss-Kahn, Defendant Strauss-Kahn's attorneys or affiliates, and/or the New York County District Attorney's Office regarding Defendant Strauss-Kahn and/or Plaintiff.

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

NAFISSATOU DIALLO,	:	
	:	Index No.: 307065/2011
Plaintiff,	:	
	:	Part IA-19A
v.	:	Hon. Douglas E. McKeon
	:	
DOMINIQUE STRAUSS-KAHN,	:	
	:	
Defendant.	:	
	:	

MEMORANDUM OF LAW IN FURTHER SUPPORT OF PLAINTIFF'S MOTION FOR ISSUANCE OF COURT ORDERED SUBPOENAS AND IN RESPONSE TO THE NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE'S OPPOSITION TO THE SAME

THOMPSON WIGDOR LLP

85 Fifth Avenue
New York, New York 10003
Phone: (212) 257-6800
Facsimile: (212) 257-6845

Counsel for Plaintiff

Plaintiff Nafissatou Diallo ("Plaintiff" or "Ms. Diallo") submits this memorandum of law in further support of her May 18, 2012 Motion for Issuance of Court Ordered Subpoenas and in response to the New York County District Attorney's Office's ("DA") opposition to the same.

PRELIMINARY STATEMENT

In compliance with Civil Practice Law and Rules ("CPLR") § 2307, Plaintiff moved this Court to so order six subpoenas, seeking discovery of relevant and material evidence pertaining to Ms. Diallo's claims arising out of her lawsuit against Dominique Strauss-Kahn ("Defendant Strauss-Kahn"). The DA erroneously argues that Plaintiff's motion should be denied in its entirety because disclosure of the documents sought is prohibited by either statute or privilege. As detailed below, the DA's interpretation of the relevant statutes -- Criminal Procedure Laws ("CPL") §§ 160.25 and 190.25(4)(a), along with Civil Rights Law § 50(b) -- plainly misses the mark. Furthermore, the DA's objections based on privilege are entirely hypothetical, as the DA readily admits that it has not even looked at any of the potentially responsive documents in its possession to assess whether any privilege applies. The DA has done nothing more than recite a litany of privileges that <u>might</u> apply. Finally, even if *some* of Plaintiff's document requests are objectionable, the vast majority of the requests certainly are not. Thus, the DA's objections are more properly reserved for its response to Plaintiff's subpoena, rather than to entirely seek to block the issuance of the subpoena in the first place. Accordingly, Plaintiff's subpoena should be so ordered.

ARGUMENT

I. THE DA'S RELIANCE ON STATUTORY AUTHORITY DOES NOT REQUIRE THE DENIAL OF PLAINTIFF'S MOTION

The DA incorrectly argues that Plaintiff's subpoena is improper in its entirety because disclosure of the documents Plaintiff seeks is allegedly completely barred by either CPL §§ 160.25 or 190.25(4)(a) or by Civil Rights Law § 50(b). The DA's argument is baseless.

A. CPL § 160.25 does not Apply to the Vast Majority of Documents Sought

CPL § 160.50 provides that, upon the termination of a criminal action or proceeding in favor of the accused, certain records relating to that criminal action shall be sealed. N.Y. Crim. Proc. Law § 160.50(1). However, despite the DA's apparent contention to the contrary, not all records are subject to the seal. In fact, the statute only explicitly identifies "every photograph of [the accused] and photographic plate or proof, and all palmprints and fingerprints" are subject to the seal. Id. at § 160.50(1)(a). The only further guidance provided by the statute regarding the scope of the seal is that "all official records and papers, including judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the arrest or prosecution . . . shall be sealed and not made available to any person or public or private agency." Id. at § 160.50(1)(c) (emphasis added). Notably, the statute does not provide any further explanation as to the meaning of "official records and papers."

While the DA's office maintains that this language covers everything in its investigative file and possession from the prosecution of Defendant Strauss-Kahn, case law makes clear that this is an overbroad interpretation. In fact, the Court of Appeals has held that "that bright line rules are not wholly appropriate in this area. Indeed, such records and papers are not always subject to easy identification and may vary according to the circumstances of a particular case." Harper v. Angiolillo, 89 N.Y.2d 761, 766 (1997) (internal citation omitted). For example, in one

case, the First Department distinguished between a tape recording that did not constitute an official record and the indictment that did: "it seems appropriate to express our understanding that a tape recording made in the course of an investigation does not become an official record required to be sealed under the section simply because it is marked in evidence as an exhibit in the course of a criminal trial. On the other hand, it would seem clear that the indictment itself is such an official record." Hynes v. Karassik, 63 A.D.2d 597, 598 (1st Dep't. 1978) aff'd, 47 N.Y.2d 659 (1979). In another recent case, the Court of Appeals confirmed that "property tags, bags and logs showing the chain of custody of money surrendered by persons arrested by respondent, and other records generated in the investigations of those arrests" were not "official records" subject to the seal. City of Elmira v. Doe, 11 N.Y.3d 799, 800, 897 (2008).

These cases are hardly the exception to the rule, as the authority is overwhelming that not all documents related to a criminal investigation are subject to the seal. See e.g. Dockery v. New York City Hous. Auth., 859 N.Y.S.2d 130, 131 (1st Dep't. 2008) ("The 911 recordings were properly admitted into evidence at the disciplinary hearing since they were not official records relating to petitioner's arrest or prosecution, and thus were not subject to the sealing statute."); Vrooman v. Dentes, 619 N.Y.S.2d 790, 791 (3d Dep't. 1994) (holding that forensic evidence from victim's clothes was not subject to the CPL § 160.50 seal); People v. Roe, 628 N.Y.S.2d 997, 1000 (Sup. Ct. Bronx Cty. 1995) (finding that medical and financial records, unrelated to defendant's arrest and prosecution, uncovered by subpoena were not subject to sealing); People v. Neuman, 428 N.Y.S.2d 577, 579 (Sup. Ct. Westchester Cty. 1980) (holding that investigative and audit reports prepared during investigation and prosecution of defendants did not constitute "official records and papers" within meaning of CPL § 160.50(1)(c)).

Accordingly, the DA's position that each and every document requested by Plaintiff is subject to the CPL § 160.50 seal is baseless, and thus, fails to provide valid grounds to warrant the denial of Plaintiff's motion.[1]

B. CPL § 190.25(4)(a) does not Preclude Production of the Vast Majority of Documents Sought by Plaintiff's Subpoena

The DA also mistakenly assumes that all of Plaintiff's document requests are barred subject to the grand jury secrecy rules. As the DA correctly points out, CPL § 190.25(4)(a) governs the secrecy of grand jury proceedings. Specifically, this statute provides, in relevant part, that the DA may not, except upon written order of the court, "disclose the nature or substance of any grand jury testimony, evidence, or any decision, result or other matter attending a grand jury proceeding." N.Y. Crim. Proc. Law § 190.25(4)(a). Conspicuously, however, and completely ignored by the DA, most of the documents sought by Plaintiff unequivocally are not subject to the secrecy provisions of this statute.

For example, Plaintiff seeks the DA's translations of audio tapes between Plaintiff and Amara Tarawally, which are entirely unrelated to the grand jury proceedings. See Affirmation of Douglas H. Wigdor (hereinafter, "Wigdor Aff."), Exhibit ("Exh.") "A" at 5. Similarly, Plaintiff requests documents referenced in the DA's August 22, 2011 Recommendation for Dismissal concerning "evidence gathered in [the] post-indictment investigation." Id. (emphasis added). Needless to say, documents and/or evidence uncovered as part of a post-indictment investigation necessarily could not have been presented to the grand jury that indicted Defendant Strauss-Kahn. Furthermore, Plaintiff's subpoena seeks a myriad of documents concerning the DA's

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[1] Plaintiff again reiterates that, to the extent that she has requested some documents that are subject to the seal, the DA can easily object to these individual requests when responding to the subpoena. Consequently, it is clear that CPL § 160.50 does not mandate the denial of Plaintiff's motion.

investigation into Plaintiff, which, again, obviously were not presented to the grand jury. Id. at 5-10.

Accordingly, even assuming *arguendo* that the secrecy of grand jury proceedings precludes Plaintiff from discovery of *some* documents, CPL § 190.25(4)(a) unequivocally does not serve as a blanket ban to her entire subpoena as the DA seems to suggest. Rather, to the extent the DA believes that specific document requests included in Plaintiff's subpoena are subject to the secrecy requirements of this statute, it is free to assert these objections when responding to the individualized requests of the subpoena.

C. Civil Rights Law § 50-b does not Serve as a Bar to Plaintiff's Subpoena

The DA's reliance on Civil Rights Law § 50-b ("Section 50-b") as a justification for opposing Plaintiff's motion is also entirely misplaced. Section 50-b protects the privacy rights of the victims of sex offenses. Specifically, the statute provides that "[n]o report, paper, picture, photograph, court file or other documents, in the custody or possession of any public officer or employee, which identifies such a victim shall be made available for public inspection." N.Y. Civ. Rights Law § 50-b(1). As such, the DA maintains that disclosure of documentation tending to identify additional victims of a sexual offense is prohibited by law. Even assuming *arguendo* that this is true, only one of Plaintiff's document requests seeks such information.[2] Wigdor Aff., Exh. "A" at 8. Therefore, rather than opposing the issuance of Plaintiff's entire subpoena, the DA could have simply objected to this single document request. Additionally, while the DA also

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[2] Notably, one recognized exception to this rule is if the victim has waived his/her right to privacy. For example, the Second Department held that a victim's voluntary decision to be featured in a newspaper article "constituted a waiver of her right to nondisclosure of her identity under Civil Rights Law § 50(b)." Feeney v. City of New York, 255 A.D.2d 483, 484 (2d Dep't. 1998). Therefore, if the DA maintains any documents on Tristane Banon, or any other potential victim of Defendant Strauss-Kahn, who has elected to go public with her allegations, "good cause" exists for the release of these documents.

maintains that, given the nature of Plaintiff's allegations, it is likewise prohibited from disclosing any documents in its possession concerning the underlying criminal investigation against Defendant Strauss-Kahn until Plaintiff executes a waiver of her privacy rights, this obstacle could easily have been dealt with simply by reaching out to Plaintiff's counsel and explaining that Plaintiff needed to execute a Section 50-b waiver before the DA could produce documents in response to her subpoena.[3] Using Plaintiff's failure to execute such a waiver, without ever communicating with Plaintiff's counsel about the issue, as a basis to oppose Plaintiff's motion for a judicially issued subpoena, is unavailing.

II. PLAINTIFF'S SUBPOENA IS NOT OVERBROAD AND SEEKS THE PRODUCTION OF RELEVANT DOCUMENTS

The DA improperly claims that Plaintiff's entire subpoena is overbroad on the basis of a single document request. Even if, assuming *arguendo*, Plaintiff's request for the DA's complete investigative file is overbroad, it does not establish that Plaintiff's entire subpoena is fatally flawed. The DA has simply cherry picked one out of 60 requests, declared it overbroad, and then asserted that by virtue of this single allegedly overbroad request, Plaintiff's entire subpoena should be denied. The DA's requested relief is drastic and inappropriate. Instead, the DA could easily have objected to this single request when responding to the subpoena.

The case law cited by the DA does nothing to suggest that Plaintiff's entire subpoena must be vacated. Rather, Oak Beach Inn Corp. v. Town of Babylon, 658 N.Y.S.2d 72 (2d Dep't. 1997), simply stands for the proposition that a single document request seeking a complete investigative file is overbroad. The opinion, which consists of three sentences, does not address the instant situation in which there might be a single overbroad request intermingled amongst dozens of proper ones. Furthermore, Mestel & Co., Inc. v. Smythe Masterson & Judd, Inc., 627

[3] Plaintiff will execute the Section 50-b waiver and provide it to the DA.

N.Y.S.2d 37 (1st Dep't. 1995) is completely inapposite as it does not pertain to a request for a complete investigative file and deals with the denial of a trial subpoena that attempted to obtain information that could properly have been uncovered during discovery. Similarly, Hudson Valley Tree, Inc. v. Barcana, Inc., 494 N.Y.S.2d 124 (2d Dep't. 1985) is also inapplicable as it does not involve a subpoena seeking a complete investigative file, but rather, a subpoena that was deemed overbroad for entirely unrelated reasons. Accordingly, the cases cited by the DA fail to support its contention that Plaintiff's subpoena must be denied in its entirety.

Moreover, the DA's requested relief is impractical and runs counter to the interests of judicial economy. If Plaintiff's entire subpoena is deemed improper by virtue of a single document request, the DA's sole relief is forcing Plaintiff to re-file her motion, less this one document request at issue. In order to initiate this process, Plaintiff would again have to involve the Court. If, instead, the DA simply reserved its objections to this single request for when it responds to the subpoena, it would save Plaintiff from having to make another unnecessary application to the Court. Furthermore, while the DA claims that responding to Plaintiff's allegedly overbroad subpoena would divert attention away from the primary goals of its office, simply responding to the subpoena would save the DA time as well. As it stands now, the DA has opposed the instant motion, and if successful, would likely oppose Plaintiff's subsequent revised motion for a judicially issued subpoena as well. Simply responding to Plaintiff's subpoena, and asserting all of its objections in response to the specific document requests to which they pertain, would also serve to maximize the DA's time and minimize the risk of the DA losing focus on the "primary goals of its office." Therefore, denying Plaintiff's motion seemingly creates the very sort of inefficiency for all parties that the DA is purportedly trying to avoid.

Finally, the DA provides absolutely no justification for its claim that Plaintiff's subpoena seeks discovery of irrelevant documents. Instead, the DA merely recites the general standard that subpoenas can only seek to uncover material and relevant documents and alleges that Plaintiff's subpoena fails to meet this threshold. Conspicuously, however, the DA does not point to even a single one of the 60 requests contained within Plaintiff's subpoena as an example to demonstrate its argument. Rather, the DA would seemingly have the Court rely solely on its unsupported claim that Plaintiff's subpoena is attempting to "expand the bounds of permissible discovery." Needless to say, in the absence of a single example or any corroborating case law, the DA's position is untenable.

II. THE DA'S CLAIMS OF PRIVILEGE ARE HYPOTHETICAL AND NOT SUBJECT TO REVIEW BY THE COURT AT THIS TIME

The DA cannot legitimately claim that privilege should bar the issuance of Plaintiff's subpoena when it is, by its own admission, completely incapable of determining whether any privilege applies. As the DA states in its opposition, "given [the] affiant's inability to review the file, I have not and cannot assert all relevant privileges . . . ." DA Mem. at ¶ 6. In other words, the DA's contention that privilege prevents the issuance of Plaintiff's subpoena is entirely hypothetical and based on the possibility, however remote, that Plaintiff's subpoena seeks documents that might be subject to an applicable privilege. As the DA is forced to admit, it cannot state whether Plaintiff has even requested a single document subject to the work product privilege, deliberative process privilege or any of the other privileges mentioned in section 6 of the DA's opposition. Consequently, the DA's privilege objections are inherently premature and cannot be addressed by the Court at this time. Instead, after Plaintiff's subpoena is so ordered, the DA can then review its files and assert any legitimate privilege objections that may exist

when responding to the individual document requests. Accordingly, the DA's claims of privilege do not provide valid grounds to oppose Plaintiff's motion.

CONCLUSION

For the reasons both set forth above and in the Affirmation of Douglas H. Wigdor, Plaintiff respectfully requests that the Court grant her Motion for Issuance of Court Ordered Subpoenas.

Dated: New York, New York
June 8, 2012

Respectfully submitted,

THOMPSON WIGDOR LLP

By: _____
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Counsel for Plaintiff

SUPREME COURT OF THE STATE NEW YORK
COUNTY OF BRONX

---------- x

NAFISSATOU DIALLO,

Plaintiff,

v.

DOMINIQUE STRAUSS-KAHN,

Defendant.

---------- x

Index No.: 307065/2011

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Patrick J. Durkin, being duly sworn deposes and says:

1. I am not a party to the action.

2. I am over 18 years of age.

3. On June 8, 2012, I caused to be served a true and correct copy of the Memorandum of Law in Further Support of Plaintiff's Motion for Issuance of Court Ordered Subpoenas and in Response to the New York County District Attorney's Office's Opposition to the same, via U.S. Mail, on the following:

William H. Taylor III Shawn P. Naunton ZUCKERMAN SPAEDER LLP 1540 Broadway, Suite 1604 New York, New York 10036 *Counsel for Defendant* Hugh W. Campbell Law Offices of Rodman & Campbell, P.C. 1428 East Gun Hill Road Bronx, New York 10469 *Counsel for Defendant*	Cyrus R. Vance, Jr. New York County District Attorney's Office Special Litigation Bureau One Hogan Place New York, NY 10013

Sworn to before me this
8th day of June, 2012

Notary Public

VIRGINIA GENTILE
Notary Public, State of New York
No. 01GE4960908
Qualified in Nassau County
Commission Expires January 2, 2014

Patrick J. Durkin