

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FEB 10 1998

JAMES W. McCORMACK, CLERK
By: [Signature]
DEP. CLERK

PAULA JONES,

Plaintiff,

v.

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON,

Defendants.

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CIVIL ACTION NO. LR-C-94-290

Judge Susan Webber Wright

UNDER SEAL

**PLAINTIFF'S MOTION FOR RECONSIDERATION OR,
IN THE ALTERNATIVE, FOR SECTION 1292(b) CERTIFICATION
OF ORDER EXCLUDING EVIDENCE CONCERNING MONICA LEWINSKY**

By its Order dated January 29, 1998 (the "Order"), the Court ruled that "any evidence concerning Ms. [Monica] Lewinsky shall be excluded from the trial of this matter." Order at 3-4. The Court rendered this ruling in the absence of any motion seeking such relief. The ruling was made during a telephonic hearing on a motion that had been filed less than 24 hours earlier. Plaintiff was given no notice that any issue of admissibility or discoverability of the Lewinsky evidence would be addressed at the hearing. The motion was filed *not* by either of the defendants herein, but by the United States, through the Office of the Independent Counsel ("OIC"). OIC's motion sought only a *temporary stay of discovery* pending OIC's investigation of felonies possibly committed by Defendant Clinton in connection with this very civil action. OIC did *not* request *exclusion* of any evidence. Nor did OIC request that any party's *discovery* of the evidence be permanently disallowed. Indeed, prior rulings of the Court clearly established that the Lewinsky evidence was discoverable in this civil action.

Plaintiff respectfully moves for reconsideration of the Order. In the alternative, plaintiff respectfully requests that the Court make the determination necessary under 28 U.S.C. § 1292(b) to permit an immediate appeal of the Order.

In support of her motion for reconsideration, plaintiff would respectfully show that there are very strong arguments for the proposition that the Order, and in particular the ruling that “any evidence concerning Ms. [Monica] Lewinsky shall be excluded from the trial of this matter,” Order at 3-4, is clearly erroneous and an abuse of discretion. These arguments are concisely presented in a memorandum filed with this motion.

In support of her motion for certification of the Order as immediately appealable under Section 1292(b), plaintiff would respectfully show that the Order, and in particular the ruling that “any evidence concerning Ms. [Monica] Lewinsky shall be excluded from the trial of this matter,” Order at 3-4, involves controlling questions of law as to which there are substantial grounds for a difference of opinion. Plaintiff would further show that an immediate appeal from the Order will materially advance the ultimate termination of the litigation. A detailed explanation of these grounds for immediate review is included in the memorandum filed with this motion.

WHEREFORE, plaintiff requests that the Court:

1. Reconsider the decision to exclude all evidence concerning Monica Lewinsky;
2. Upon reconsideration, vacate the Order dated January 29, 1998; and
3. Permit plaintiff to complete her discovery of the Lewinsky evidence. If the Court believes that a stay of discovery is required by the OIC's ongoing investigation, discovery should be stayed until a date certain (for example, March 15), at which time the Court can require the OIC to provide a report as to the status of the investigation, and can then revisit the question whether the stay should remain in effect.

In the alternative, plaintiff requests that the Court make an express finding that the Court's Order dated January 29, 1998, and in particular the ruling that "any evidence concerning Ms. [Monica] Lewinsky shall be excluded from the trial of this matter," involves controlling questions of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the Order may materially advance the ultimate termination of the litigation.

Plaintiff requests all other and further relief to which she is entitled at law or in equity.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 1998, a true and correct copy of the foregoing document was served on all parties by fax and by first-class mail, postage prepaid, to their counsel of record at the addresses set forth below, in compliance with FED. R. CIV. P. 5.

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