

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	
	§	CRIMINAL NO. C-06-563-S
CITGO PETROLEUM	§	
CORPORATION; CITGO REFINING	§	
AND CHEMICALS COMPANY, L.P.,	§	
and PHILIP VRAZEL,	§	
	§	
	§	
Defendants.	§	

**CITGO’S RESPONSE TO
MOTION OF THE UNITED STATES TO LIMIT THE SCOPE
OF THE DEPOSITION OF SUZIE CANALES**

COME NOW, CITGO Petroleum Corporation and CITGO Refining and Chemicals Company, L.P. (“CITGO”), Defendants, responding to the Government’s Motion to Limit the Scope of the Deposition of Suzie Canales as follows:

Because Suzie Canales boasted of contemporaneous knowledge of jury deliberations, CITGO requested the opportunity to take her deposition. This Court agreed, properly concluding that “further investigation is justified.” (Order at 3.) Now, in what is facially a motion on behalf of Ms. Canales, the government seeks to impose unorthodox conditions on the court-ordered deposition, asking that it take place in open court and follow a negotiated script. The government’s motion should be denied.

As a threshold matter, the government does not represent Ms. Canales, nor can it. Indeed, if Ms. Canales’ admissions of improper jury contact are true, she likely violated federal law. *See* 18 U.S.C. § 1508(b). Even the government candidly admits that “her interests are . . . different from the government’s.” (Mot. at 2.) Because the

government's interests are adverse to Ms. Canales', it is improper—and curious—for the government to seek “protections” on her behalf.¹

Regardless, the conditions the government seeks are unsupportable. For instance, the government wants the deposition to take place in open court. The government cites no law or authority supporting its request to take up this Court's valuable time. Instead, the government blithely concludes that such a procedure is necessary because it believes that “CITGO is trying to intimidate Ms. Canales because of her environmental activism against the Corpus Christi refinery.” (Resp. at 2.) This unsupported accusation is false. CITGO simply seeks to explore the foundation of Ms. Canales' own admissions that she had improper contact with the jury during deliberations.

Next, the government wants the deposition to be taken using a script of negotiated and court-approved questions. Notably, in seeking to take the depositions of CITGO attorneys Ms. Harris and Ms. Burch, the government repeatedly objected to the use of scripted questions, characterizing it as a “bizarre arrangement.”² In the case of Ms. Harris and Ms. Burch, however, the Court approved of such a unique procedure because the two witnesses who were to be deposed were *the attorneys* of the criminal defendants standing trial. The Court thus needed to protect the criminal defendants' attorney-client privilege.³

Here, in contrast, the government does not point to any privileges or immunities that require such safeguards. There are none. The deposition of Ms. Canales should thus

¹ The government's “belief” that Ms. Canales is not represented by counsel does not justify the present motion. (Mot. at 2.) Rather, if true, it underscores the impropriety of it.

² See Doc. 361. See also 6/4/07 Letter from Howard Stewart to Honorable John D. Rainey—Doc. 364.

³ The Court will recall that these safeguards proved absolutely necessary, as the government repeatedly ignored the Court-approved questions and insisted on questioning the attorneys about clearly privileged matters that went well beyond the scope of the pre-approved scripts.

proceed like that of any other non-attorney witness. The government's motion should therefore be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this CITGO'S Response to Motion of the United States to Limit the Scope of the Deposition of Suzie Canales has been served on the following via the ECF system:

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Dated: November 29, 2007