

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	18-CR-602 (JMF)
	:	
MICHAEL COHEN,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

On December 12, 2023, the Court entered an Order to Show Cause directing David M. Schwartz, counsel of record for Defendant Michael Cohen, to explain why he should not be sanctioned for citing, in Defendant’s latest motion for early termination of supervised release, cases that appear not to exist. *See* ECF No. 96; *see also* ECF No. 88. On December 15, 2023, Schwartz — through counsel of his own — filed a response to the Court’s Order to Show Cause accompanied by a letter-motion to seal his response. In the letter-motion, counsel opine that Schwartz’s response to the Order to Show Cause “implicates the confidentiality of the attorney-client privilege,” but that, “under the unique circumstances present here,” the New York Rules of Professional Conduct permit — indeed, require — disclosure of those communications to the Court. The letter-motion requests that Schwartz’s submission be maintained under seal “until” the Court resolves “whether Mr. Schwartz can reveal the information stated in his affirmation without violating the attorney-client privilege.”

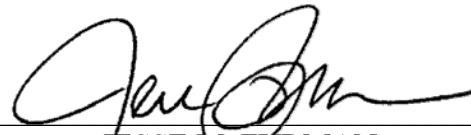
The letter-motion to seal is granted on a temporary basis. Given that the issues implicate Defendant, the Court will give him — through E. Danya Perry (who entered a notice of appearance on his behalf after the Government filed its opposition, *see* ECF No. 91, and then filed a reply, which disclosed that the cases cited in the original motion could not be “verif[ied],”

ECF No. 95, at 3 n.6) — an opportunity to be heard. In light of the upcoming holidays, Defendant shall file any response by **December 28, 2023**; Schwartz may, in turn, file a response to any submission by Defendant no later than **January 3, 2024**. Defendant's response should address (1) the substance of Schwartz's filing; (2) whether Schwartz's disclosures to the Court violate the attorney-client privilege; and (3) relatedly, whether Schwartz's filing — *and* Defendant's response to it — should remain under seal or be docketed, either in redacted or unredacted form. In the absence of a submission by Defendant by December 28, 2023, Schwartz's submission will be unsealed without further notice to the parties.

Although counsel to Schwartz state that they appear only for the limited purpose of responding to the Court's Order to Show Cause, they shall promptly enter a notice of appearance on ECF. Further, no later than **December 19, 2023**, counsel to Schwartz shall serve Schwartz's filing on Perry and file proof of such service on ECF; Perry may (indeed should), in turn, promptly share Schwartz's filing with Defendant.

SO ORDERED.

Dated: December 18, 2023  
New York, New York



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JESSE M. FURMAN  
United States District Judge