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PERSPECTIVE

Avenatti says he is ready to talk about the Nike extortion case

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For the first time, suspended attorney Michael Avenatti says he will reveal details about the \$25 million extortion scheme he was convicted of committing against Nike Inc., when he sits for a deposition next week in a civil lawsuit brought against his unindicted co-conspirator, Los Angeles attorney Mark Geragos.

Avenatti's New York attorney, Benjamin Silverman, sent a letter Tuesday to U.S. District Judge Paul G. Gardephe, who presides over the extortion case, asking him to release a protective order so documents can be subpoenaed in a civil case facing Geragos in Los Angeles. In the letter, Silverman revealed that Avenatti will testify to questions about the scheme; something he never did in the criminal case.

"Mr. Avenatti has been cooperating with Mr. Franklin's lawsuit against Mark Geragos, including agreeing to sit for a deposition next week and promptly responding to document requests," Silverman wrote. "Many of the subpoenaed documents, however, are subject to the protective order sought by the government and entered by the court.... Mr. Avenatti, for his part, has no objection to loosening or eliminating the protective order to allow Mr. Franklin's counsel to obtain these documents."

Brought by Los Angeles youth basketball coach Gary Franklin, the lawsuit alleges Geragos conspired with Avenatti to use his privileged information to extort Nike. Franklin, represented by Trent Copeland of Browne George Ross O'Brien

Annaguey & Ellis LLP, said Geragos, as his client's former attorney, withheld a \$1.5 million settlement offer Nike would have extended to him, if Geragos and Avenatti hadn't tried to extort the shoe company. *Franklin v. Geragos*, 20STCV37797 (L.A. Super. Ct., filed Oct. 1, 2020).

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Geragos, who pleaded the Fifth Amendment and did not testify in the criminal case against Avenatti, was never charged in connection to the scheme. However, it appears he is now cooperating with discovery requests in the civil lawsuit facing him in a Los Angeles County Superior Court.

In a phone interview Wednesday, Avenatti said he is anxious for the truth to be revealed.

"I am very much looking forward to Mark Geragos explaining why he refused to testify in my criminal case in response to my subpoena based on alleged Fifth Amendment concerns but now that he faces civil liability 20 months later has no problem answering questions under oath," Avenatti said. "Any suggestion that Mark Geragos was not an active and willing participant in our efforts, vis a vis Coach Franklin and Nike, is absurd. I am anxious for the truth to be known."

Geragos did not respond to a request for comment Wednesday,

but has repeatedly denied he ever represented or even met Franklin.

Explaining why he did not impose the eight-year sentence New York prosecutors originally sought for Avenatti in the Nike case, Gardephe said in July that Avenatti appeared truly remorseful and had

"It's one or the other," Copeland said. "Either they impaired his ability to settle his claims legally and his ability to get a real offer, or it was a real \$1.5 million offer and they lost it because of their extortion. This case is about holding Geragos accountable for his egregious conduct against a coach who was simply seeking an opportunity to resolve his claims."

According to his complaint, Franklin reached out to Avenatti in March 2019 after Nike terminated a sponsorship contract with his basketball program. Avenatti contacted Geragos, who had a close relationship with Nike's general counsel, to help him extort the shoe company by threatening to publicly accuse it of bribing young basketball players – an allegation Avenatti learned during confidential communications with Franklin, according to court documents.

Avenatti was sentenced to 30 months in prison after being convicted of extorting Nike and is in home confinement, but he has since appealed the conviction. His decision to testify about the extortion in a separate civil suit is a risky one, said Kenneth White, a former prosecutor and criminal defense attorney at Brown White & Osborn LLP who has followed the case closely.

"It can't affect his conviction or sentence in the Nike case, but if, hypothetically, he overturned that conviction on appeal, like he says he thinks he should be able to do, then it could be used against him in the retrial," White said. "In addition, anything he says, to the extent it's relevant, can be used in any of the other three criminal trials he still faces."

suffered in solitary confinement in a maximum security lockup early in the pandemic. He also wondered why Geragos was never charged.

"A variance is also necessary due to Mark Geragos," Gardephe said. "He was listed as an unindicted co-conspirator. He suffered no consequence."

While his testimony could hurt Geragos' defense in the civil case, Avenatti denied on Wednesday that Nike ever made a \$1.5 million offer to Franklin.

"As Judge Gardephe found in New York there was never any \$1.5 million offer made to Coach Franklin period. It never happened."

Responding Wednesday, Copeland said whether the \$1.5 million was a legitimate offer or a ruse used by Nike and the FBI to set up Avenatti in an effort to build a criminal case against him, Franklin's interests, as Avenatti's and Geragos' client, were ultimately impaired. Franklin, among other causes of action, is seeking damages for legal malpractice.

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