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May 12, 2009

BY HAND DELIVERY

Honorable Jeffrey Colbath
Palm Beach County Courthouse
Main Courthouse
205 N. Dixie Hwy, Room 11.2213
West Palm Beach, FL 33401

Re: State v. Epstein
Case Nos. 2008CF009381AXX and 2008CF009454AXX - Division W

Dear Judge Colbath,

The undersigned represents E.W., a nonparty in these cases. Enclosed is a copy of E.W.'s motion to vacate order sealing records and unseal records. This motion is made pursuant to the procedure for nonparties set forth in Rule of Judicial Administration Rule 2.420(d)(5).

On behalf of my client, I am respectfully requesting the Court set this motion for hearing (estimated time: 10 minutes). Enclosed are a proposed order setting hearing, copies and envelopes.

Respectfully,

William J. Berger

cc: Assistant State Attorney, Div. W (w/encls)
Jack Goldberger, attorney for defendant (w/encls)

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Reply To: Las Olas City Centre • 401 East Las Olas Boulevard • Suite 1650 • Fort Lauderdale, Florida 33301 Telephone: (954) 522-3456 • Fax: (954)527-8663

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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY
FLORIDA, CRIMINAL DIVISION

STATE OF FLORIDA,

vs.

Case Nos.2006-CF9454 AXX

JEFFREY EPSTEIN,

2008-9381CF AXX

Defendant.

**ORDER SETTING HEARING ON NONPARTY E.W.'S MOTION TO VACATE
ORDER SEALING RECORDS AND UNSEAL RECORDS**

IT IS HEREBY ORDERED that a hearing will be held on nonparty E.W.'s Motion to Vacate Order Sealing Records and Unseal Records on

_____, 2009, at _____ am/pm (10 minutes allotted) in Courtroom _____, Palm Beach County Courthouse, 205 N. Dixie Hwy, West Palm Beach, FL, 33401.

DONE AND ORDERED in West Palm Beach, Palm Beach County, FL, this _____ day of May, 2009.

CIRCUIT JUDGE

Copies mailed to:

Assistant State Attorney, Div. W- 401 N. Dixie Hwy, West Palm Beach, FL 33401; Jack Goldberger, attorney for defendant – 250 Australia Ave. So. Suite 1400, West Palm Beach, FL 33401; and William J. Berger, attorney for E.W. – 401 E. Las Olas Blvd., Suite 1650, Ft. Lauderdale, FL 33301

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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY
FLORIDA, CRIMINAL DIVISION

STATE OF FLORIDA,

vs.

Case Nos.2006-CF9454 AXX

JEFFREY EPSTEIN,

2008-9381CF AXX

Defendant.

**NONPARTY E.W.'S MOTION TO VACATE ORDER SEALING RECORDS AND
UNSEAL RECORDS**

E.W., a nonparty, moves pursuant to the Rules of Judicial Administration Rule 2.420(d)(5) to vacate the order sealing records and unseal two documents in these files on the following grounds:

1. EW is a victim of sexual abuse by defendant who was convicted of procuring a person under 18 for prostitution and felony solicitation of prostitution. See attached judgments of conviction (Exhibit "A".) E.W. presently has a pending civil action in this court against defendant for damages. Case number 502008CA028058XXXXMB AB.
2. On June 30, 2008 and August 25, 2008, this Court sealed two documents, a non-prosecution agreement and an addendum to non-prosecution agreement. See attached copies of envelopes containing the sealed documents and also an Agreed Order Sealing Document In Court File entered July 2, 2008 (Exhibit "B".)
3. The sealing of these documents was done without written motion required by Rule 2.420(d)(1) or notice to the public, the media, the record newspaper and the victims of defendant required by Rule 2.420(d)(2). The Agreed Order does not set forth the

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grounds set forth in Rule 2.420(d)(3). The clerk of court did not post a copy of the notice of the order as required by Rule 2.420(d)(4).

4. The sealing of these documents was also done contrary to the Administrative Orders of this Court, AO 2.104, 2.032, 2.303 and 11.046.

5. The request to seal the first document was made orally at the plea hearing on June 30, 2008. A copy of the relevant portion of the transcript is attached (see pages 38-40) (Exhibit "C".)

6. It is against public policy for these documents to have been sealed and hidden from public scrutiny. As a member of the public, E.W. has a right to have these documents unsealed. Furthermore, these documents are relevant and material to E.W.'s civil action against defendant. As stated in the plea colloquy, they were an inducement for defendant to enter into his guilty pleas. They are proper objects of discovery. However, unless they are unsealed, E.W. is unable to obtain them or utilize them in her case.

7. Pursuant to Rule 2.420(d)(5), the Court must hold a hearing on this motion in open court.

WHEREFORE movant requests the Court vacate the order sealing records and unseal the two documents.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail and Facsmile this 12 day of May, 2009 to: Jack Alan Goldberger, Esq., Atterbury Goldberger et al., 250 Australian Ave. South, Suite 1400, West Palm Beach, FL 33401.

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