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**Jack Alan Goldberger, Esq.** **(561) 835-8691**  
**Bradley J. Edwards, Esq.** **(954) 527-8663**  
**William J. Berger, Esq.**  
From: **Deanna K. Shullman, Esq.** Date: **06/04/2009**  
Re: **State v. J. Epstein** Pages: **6**  
Cc: **Marilyn Judicial Assistant to Judge** **561-355-1616**  
**Colbath**

Urgent  For review  Please comment  Please reply  Please recycle

Please see attached Motion to Intervene and Petition for Access

CONFIDENTIALITY STATEMENT

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09/12/2019

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Agency to Agency Request: 19-411

confidential  
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SDNY\_GM\_00331938

EFTA\_00204664

EFTA02729648

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 &  
2008-9381CF-AXX

JEFFREY EPSTEIN

---

**PALM BEACH POST'S MOTION TO INTERVENE  
AND PETITION FOR ACCESS**

Palm Beach Newspapers, Inc., d/b/a The Palm Beach Post (the "Post") moves to intervene in this action for the limited purpose of seeking access to documents filed under seal. The documents relate directly to the Defendant's guilty plea and sentence. Thus, the sealed documents go to the heart of the disposition of this case. But in requesting that Judge Pucillo seal these documents, the parties failed to comply with Florida's strict procedural and substantive requirements for sealing judicial records. In addition, continued sealing of these documents is pointless, because these documents have been discussed repeatedly in open court records. For all of these reasons, the documents must be unsealed. As grounds for this Motion, the Post states:

1. The Post is a daily newspaper that has covered this matter and related proceedings. In an effort to inform its readers concerning these matters, the Post relies upon (among other things) law enforcement records and judicial records.
2. As a member of the news media, the Post has a right to intervene in criminal proceedings for the limited purpose of seeking access to proceedings and records. See Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113, 118 (Fla. 1988) (news media have standing to challenge any closure order); Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 7 (Fla. 1982) (news media must be given an opportunity to be heard on question of closure).

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3. The particular documents under seal in this case are a non-prosecution agreement that was docketed on July 2, 2008, and an addendum docketed on August 25, 2008. Together, these documents apparently restrict any federal prosecution of the Defendant for offenses related to the conduct to which he pleaded guilty in this case. Judge Pucillo accepted the agreement for filing during a bench conference on June 30, 2008. The agreement, Judge Pucillo found, was "a significant inducement in accepting this plea." Such agreements and related documents typically are public record. See Oregonian Publishing Co. v. United States District Court, 920 F.2d 1462, 1465 (9th Cir. 1990) ("plea agreements have typically been open to the public"); United States v. Kooistra, 796 F.3d 1390, 1390-91 (11th Cir. 1986) (documents relating to defendant's change of plea and sentencing could be sealed only upon finding of a compelling interest that justified denial of public access).

4. The Florida Constitution provides that judicial branch records generally must be open for public inspection. See Art. I, § 24(a), Fla. Const. Closure of such records is allowed only under narrow circumstances, such as to "prevent a serious and imminent threat to the fair, impartial and orderly administration of justice," or to protect a compelling governmental interest. See Fla. R. Jud. Admin. 2.420(c)(9)(A). Additionally, closure must be effective and no broader than necessary to accomplish the desired purpose, and is lawful only if no less restrictive measures will accomplish that purpose. See Fla. R. Jud. Admin. 2. 420(c)(9)(B) & (C); Lewis, 426 So. 2d at 3.

5. In this case, the non-prosecution agreement and, later, the addendum were sealed without any of the requisite findings. Rather, it appears from the record, the documents were sealed merely because the Defendant's counsel represented to Judge Pucillo that the non-prosecution agreement "is a confidential document." See Plea Conference Transcript page 38

**CONFIDENTIAL**

(June 30, 2008). Such a representation falls well short of demonstrating a compelling interest, a genuine necessity, narrow tailoring, and that no less restrictive measures will suffice. Consequently, the sealing was improper and ought to be set aside.

6. In addition, at this time good cause exists for unsealing the documents because of their public significance. Since the Defendant pleaded guilty to soliciting a minor for prostitution, he has been named in at least 12 civil lawsuits that – like the charges in this case – allege he brought and paid teenage girls to come his home for sex and/or “massages.”<sup>1</sup> At least 11 cases are pending. In another lawsuit, one of the Defendant’s accusers has alleged that federal prosecutors failed to consult with her regarding the disposition of possible charges against the Defendant.<sup>2</sup> State prosecutors also have been criticized: The Palm Beach Police Chief has faulted the State Attorney’s handing of these cases as “highly unusual” and called for the State Attorney’s disqualification. Consequently, this case – and particularly the Defendant’s agreements with prosecutors – are of considerable public interest and concern.

7. The Defendant’s non-prosecution agreement with federal prosecutors also was important to Judge Pucillo. As she noted in the June 2008 plea conference, “I would view [the non-prosecution agreement] as a significant inducement in accepting this plea.” See Plea Conference Transcript page 39. Florida law recognizes a strong public right of access to documents a court considers in connection with sentencing. See Sarasota Herald Tribune, Div.

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<sup>1</sup> See, e.g., Doe v. Epstein, Case No. 08-80069 (S.D. Fla. 2008); Doe No. 2 v. Epstein, Case No. 08-80119 (S.D. Fla. 2008); Doe No. 3. v. Epstein, Case No. 08-80232 (S.D. Fla. 2008); Doe No. 4. v. Epstein, Case No. 08-80380 (S.D. Fla. 2008); Doe No. 5 v. Epstein, Case No. 08-80381 (S.D. Fla. 2008); C.M.A. v. Epstein, Case No. 08-80811 (S.D. Fla. 2008); Doe v. Epstein, Case No. 08-80893 (S.D. Fla. 2008); Doe No. 7 v. Epstein, Case No. 08-80993 (S.D. Fla. 2008); Doe No. 6 v. Epstein, Case No. 08-80994 (S.D. Fla. 2008); Doe II v. Epstein, Case No. 09-80469 (S.D. Fla. 2009); Doe No. 101 v. Epstein, Case No. 09-80591 (S.D. Fla. 2009); Doe No. 102 v. Epstein, Case No. 09-80656 (S.D. Fla. 2009); Doe No. 8 v. Epstein, Case No. 09-80802 (S.D. Fla. 2009).

<sup>2</sup> See In re: Jane Doe, Case No. 08-80736 (S.D. Fla. 2008).

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of the New York Times Co. v. Holtzendorf, 507 So. 2d 667, 668 (Fla. 2d DCA 1987) (“While a judge may impose whatever legal sentence he chooses, if such sentence is based on a tangible proceeding or document, it is within the public domain unless otherwise privileged.”). In this case, no interest justifies continued sealing of these “significant” documents that Judge Pucillo considered in accepting the plea and sentencing the Defendant. The lack of any such compelling interest – as well as the parties’ failure to comply with the standards for sealing documents initially – provide good cause for unsealing the documents at this time.

8. Finally, continued closure of these documents is pointless, because many portions of the sealed documents already have been made public. For example, court papers quoting excerpts of the agreement have been made public in related federal proceedings.<sup>3</sup> As the Florida Supreme Court has noted, “there would be little justification for closing a pretrial hearing in order to prevent only the disclosure of details which had already been publicized.” Lewis, 426 So. 2d at 8. Similarly, in this case, to the extent that information already has been made public, continued closure is pointless and, therefore, unconstitutional.

9. The Post has no objection to the redaction of victims’ names (if any) that appear in the sealed documents. In addition, insofar as the Defendant or State Attorney seek continued closure, the Post requests that the Court inspect the documents in camera in order to assess whether, in fact, continued closure is proper.

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<sup>3</sup> See, e.g., “Defendants Jeffrey Epstein and Sarah Kellen’s Motion for Stay,” C.M.A. v. Epstein, Case No. 08-80811 (S.D. Fla. July 25, 2008) (filed publicly Jan. 7, 2009).

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WHEREFORE, the Post respectfully requests that this Court unseal the non-prosecution agreement and addendum and grant the Post such other relief as the Court deems proper.

Respectfully submitted,

THOMAS, LOCICERO & BRALOW PL

 Fla Bar #  
0144029

Deanna K. Shullman  
Florida Bar No.: 0514462  
James B. Lake  
Florida Bar No.: 0023477  
101 N.E. Third Avenue, Suite 1500  
Fort Lauderdale, FL 33301  
Telephone: (813) 984-3060  
Facsimile: (813) 984-3070

Attorneys for The Palm Beach Post

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and U.S. Mail to: **R. Alexander Acosta**, United States Attorney's Office - Southern District, 500 S. Australian Ave., Ste. 400, West Palm Beach, FL 33401 (fax: 561-820-8777); **Michael McAuliffe, Esq.**, and **Judith Stevenson Arco, Esq.**, State Attorney's Office - West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401 (fax: 561-355-7351); **Jack Alan Goldberger, Esq.**, Atterbury Goldberger, et al., 250 S. Australian Ave., Ste. 1400, West Palm Beach, FL 33401 (fax: 561-835-8691); and **Bradley J. Edwards, Esq. and William J. Berger, Esq.**, Rothstein Rosenfeldt Adler, 401 East Las Olas Blvd., Suite 1650, Fort Lauderdale, FL 33394 (fax: 954-527-8663) on this 1st day of June, 2009.

  
\_\_\_\_\_  
Attorney

**CONFIDENTIAL**

THOMAS | LoCICERO  
& BRALOW

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Deanna K. Shullman  
Direct Dial: (561) 967-2009  
Deanna.Shullman@tlolawfirm.com

Reply To Tampa

June 1, 2009

**VIA FEDERAL EXPRESS OVERNIGHT MAIL**

The Honorable Jeffrey Colbath  
Fifteenth Judicial Circuit-Palm Beach  
Palm Beach County Courthouse  
Main Judicial Complex  
205 N. Dixie Highway, Room 11F  
West Palm Beach, FL 33401

Re:

Dear Judge Colbath:

Enclosed is a courtesy copy of non-party Palm Beach Newspapers, Inc. d/b/a The Palm Beach Post's (the "Post") Motion to Intervene and Petition for Access to certain court records in this case. It is our understanding that Bradley Edwards and William Berger of Rothstein Rosenfeldt Adler have filed a similar motion on behalf of a non-party known as "E.W.," and that E.W.'s motion is set for hearing on June 10, 2009. The Post requests an opportunity to be heard on the issue of access to these records at that time.

Thank you for your consideration in this matter. Please do not hesitate to contact me with any questions or comments.

Sincerely,

THOMAS, LOCICERO & BRALOW PL



Deanna K. Shullman

cc: Counsel of Record

09/12/2019

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Agency to Agency Request: 19-411

**CONFIDENTIAL**

SDNY\_GM\_00331944

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EFTA02729654

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

Barb Burns-SVU



July 1, 2009

CASE NO.: 4D09-2554  
L.T. No. : 20098CF009381A

JEFFREY EPSTEIN

v. STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

ORDERED that the motion to file under seal is granted.

ORDERED FURTHER that this court grants the Motion to Use One Appendix to Support the Emergency Petition for Writ of Certiorari and Emergency Motion to Review Denial of Stay.

ORDERED FURTHER that this court grants petitioner's Emergency Motion to Review the Order June 26, 2009, that denies the motion for stay. The June 25, 2009, order granting the motion to unseal is stayed pending further order of this court.

ORDERED FURTHER that within ten (10) days of this order respondent shall show cause why the petition should not be granted. Respondent shall address this court's jurisdiction to review the order as well as the merits of the petition.

ORDERED FURTHER that petitioner may have ten (10) days thereafter to reply.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Sharon R. Bock, Clerk  
Robert D. Critton, Jr.  
Deanna K. Shullman  
Hon. Jeffrey J. Colbath

Barbara J. Compiani  
Jane Kreusler-Walsh  
Spencer T. Kuvin

Jack A. Goldberger  
U.S. Attorney's Office  
William J. Berger

dl

*Marilyn Beuttenmuller*  
MARILYN BEUTTENMULLER, Clerk  
Fourth District Court of Appeal



**CONFIDENTIAL**

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

CASE NO. 502008CF009381AXXMB  
502006CF009454AXXMB

STATE OF FLORIDA,

vs.

JEFFREY EPSTEIN,  
Defendant

**ORDER DENYING MOTION TO STAY DISCLOSURE AGREEMENT**

THIS MATTER came before the Court at a hearing on June 26, 2009, on Jeffrey Epstein's Motion to Stay the Disclosure of the Non-Prosecution Agreement and the Addendum thereto. The Court notes the parties were present and represented by counsel. Based upon argument, it is

ORDERED AND ADJUDGED that

1. The Motion to Stay is denied.
2. The Clerk of Court shall make the documents available for disclosure at noon on Thursday, July 2, 2009. It is the intent of the Court to give the Defendant, Mr. Epstein, and his attorney an opportunity to have this Court's orders reviewed by the 4<sup>th</sup> DCA. If the Clerk gets no direction from the Appellate Court, she shall disclose the documents on the date referred to above.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this  
\_\_\_\_ day of June, 2009.

09/12/2019

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Jeffrey J. Colbath  
Palm Beach County Judge

Agency to Agency Request: 19-411

SDNY\_GM\_00331946

EFTA\_00204672

EFTA02729656

Page Two  
Case No. 502008CF009381AXXMB/502006CF009454AXXMB  
Order Denying Motion to Stay Disclosure Agreement

Copies furnished:

R. Alexander Acosta, U.S. Attorney's Office - Southern District  
500 South Australian Avenue, Suite 400  
West Palm Beach, FL 33401

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West Palm Beach, FL 33401

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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 FOR ATTORNEYS FEES AND COSTS**

E.W., a nonparty, moves pursuant to Administrative Rule 2.303 for attorneys fees and costs on the following grounds:

1. EW is filed a motion to vacate the agreed order sealing records and to unseal the nonprosecution agreement and addendum in this file. Also, E.W. opposed defendant's motion to unseal said records. E.W.'s motion was granted and defendant's was denied at hearing on June 26, 2009.
2. E.W. is entitled to an award of reasonable attorneys fees and costs pursuant to said Administrative Rule. Defendant's motion to seal and his opposition to E.W.'s motion were not made in good faith and were not supported by a sound legal or factual basis.
3. E.W. adopts and incorporates by reference all arguments in the motion for fees filed by The Palm Beach Post.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail this 2nd day of July, 2009 to: Jack Alan Goldberger, Esq., Atterbury Goldberger et al., 250 Australian Ave. South, Suite 1400, West Palm Beach, FL 33401;

**CONFIDENTIAL**

Michael McAuliffe, Esq. and Judith Stevenson Arco, Esq., State Attorney's Office-West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401; and Deanna K. Shullman, Esq. and James B. Lake, Esq., 101 N.E. Third Avenue, Suite 1500, Fort Lauderdale, FL 33301.

ROTHSTEIN ROSENFELDT ADLER  
Attorneys for E.W.  
401 East Las Olas Blvd., Suite 1650  
Fort Lauderdale, Florida 33394  
Telephone (954) 522-3456  
Telecopier (954) 527-8663

By:   
*WJ* William J. Berger  
Florida Bar No. 197701  
[wberger@rra-law.com](mailto:wberger@rra-law.com)

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

CASE NO. 502008CF009381AXXMB  
502006CF009454AXXMB

STATE OF FLORIDA,

vs.

JEFFREY EPSTEIN,  
Defendant

**ORDER DENYING MOTION TO STAY DISCLOSURE AGREEMENT**

THIS MATTER came before the Court at a hearing on June 26, 2009, on Jeffrey Epstein's Motion to Stay the Disclosure of the Non-Prosecution Agreement and the Addendum thereto. The Court notes the parties were present and represented by counsel. Based upon argument, it is

ORDERED AND ADJUDGED that

1. The Motion to Stay is denied.
2. The Clerk of Court shall make the documents available for disclosure at noon on Thursday, July 2, 2009. It is the intent of the Court to give the Defendant, Mr. Epstein, and his attorney an opportunity to have this Court's orders reviewed by the 4<sup>th</sup> DCA. If the Clerk gets no direction from the Appellate Court, she shall disclose the documents on the date referred to above.

DONE AND ORDERED in West Palm Beach, ~~Palm Beach County~~, Florida this  
\_\_\_\_ day of June, 2009.

JUN 26 2009  
JUDGE JEFFREY J. COLBATH

09/12/2019

JEFFREY J. COLBATH  
Page 3928  
Circuit Court Judge

Agency to Agency Request: 19-411

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Page Two  
Case No. 502008CF009381AXXMB/502006CF009454AXXMB  
Order Denying Motion to Stay Disclosure Agreement

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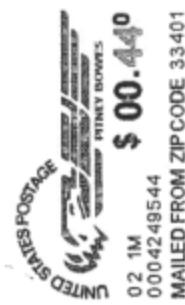
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*Mark your prints*

*SJW*  
Judith Stevenson-Aren, Esq.  
State Attorney's Office- West Palm Beach  
401 North Dixie Highway  
West Palm Beach, FL 33401

33401+4295

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 &  
2008-9381CF-AXX

JEFFREY EPSTEIN

COPY  
RECEIVED FOR FILING

JUN 26 2009

SHARON R. BOCK  
CLERK & COMPTROLLER  
CIRCUIT COURT  
CIVIL DIVISION

**INTERVENOR PALM BEACH POST'S  
MOTION FOR ATTORNEYS' FEES AND COSTS**

Palm Beach Newspapers, Inc., d/b/a The Palm Beach Post (the "Post") moves ~~CIRCUIT COURT~~ for an award of attorneys' fees and costs in connection with this matter. In support thereof, the Post states:

1. The Post is a daily newspaper that has covered this matter and related proceedings. In an effort to inform its readers concerning these matters, the Post relies upon (among other things) law enforcement records and judicial records.
2. On June 10, 2009, the Court granted the Post's Motion to Intervene in this action for the purpose of seeking access to court records. Specifically, the Post sought access to a non-prosecution agreement that was docketed on July 2, 2008, and an addendum docketed on August 25, 2008.
3. On June 25, 2009, the Court heard oral argument on the Post's (and other non-parties') motions. The Court found that the documents has not properly been sealed in the first instance and further denied Defendant's Motion to Make Court Records Confidential dated June 11, 2009.
4. The Post is entitled to its fess and costs in this matter pursuant to Administrative Order Number 2.303 of this Court. Specifically, Rule 2.303 allows sanctions to be imposed

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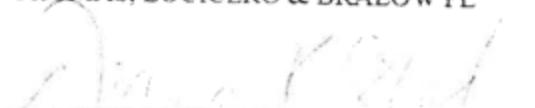
against the moving party "if a motion to seal is not made in good faith and is not supported by a sound legal and factual basis." Admin. Or. 15<sup>th</sup> Jud. Cir. Fla. 2.303.

5. In this case, Mr. Epstein's Motion to Make Court Records Confidential was neither made in good faith nor supported by a sound legal and factual basis. Defendant's Motion asserted four interests that ostensibly would be protected by closure, but the motion cited no facts in support of that assertion. At the hearing on the motion, Defendant made no additional effort to demonstrate how and why the asserted interests would be served by closure. Instead, Defendant's arguments addressed extraneous, inapplicable issues that did not support closure and demonstrated the Defendant's lack of good faith in bringing his motion. In sum, the motion was wholly without merit, and the Post is entitled to an award of its fees and costs in defending its rights of access.

WHEREFORE, the Post respectfully requests that this Court award to it its fees and costs in connection with this matter and grant such other relief as the Court deems proper.

Respectfully submitted,

THOMAS, LOCICERO & BRALOW PL

  
\_\_\_\_\_  
Deanna K. Shullman  
Florida Bar No.: 0514462  
James B. Lake  
Florida Bar No.: 0023477  
101 N.E. Third Avenue, Suite 1500  
Fort Lauderdale, FL 33301  
Telephone: (813) 984-3060  
Facsimile: (813) 984-3070

Attorneys for The Palm Beach Post

**CONFIDENTIAL**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished  
~~US mail~~ <sup>AKS</sup>  
via hand delivery to **Jack Alan Goldberger, Esq.**, Atterbury Goldberger, et al., 250 S.  
Australian Ave., Ste. 1400, West Palm Beach, FL 33401 (fax: 561-835-8691 and via U.S. mail  
to **Michael McAuliffe, Esq.**, and **Judith Stevenson Arco, Esq.**, State Attorney's Office - West  
Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401 (fax: 561-355-7351)); on  
this 10<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Attorney

**CONFIDENTIAL**

THOMAS | LOCICERO  
& BRALOW

400 N. Ashley Dr., Suite 1100, Tampa, FL 33602  
P.O. Box 2602, Tampa, FL 33601-2602

*Brendan  
Burman*

Mitchell Stevenson Arceo, Esq.  
State Attorney's Office - West Palm Beach  
401 North Dixie Highway  
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3340144296

09/12/2019

CONFIDENTIAL

Page 3934



Agency to Agency Request: 19-411

SDNY\_GM\_00331956

EFTA\_00204682

EFTA02729666

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

---

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.

---

**DEFENDANT'S, JEFFREY EPSTEIN, MOTION FOR SANCTIONS AND  
TO COMPEL DEPOSITION OF JANE DOE NO. 4 AND MEMORANDUM IN  
SUPPORT THEREOF**

Defendant, JEFFREY EPSTEIN, by and through his undersigned attorneys, moves this court for an order granting sanctions pursuant to Rule 30(d)(2) and (3)(A) and (C) (referencing Rule 37(a)(5)), Federal Rules of Civil Procedure and compelling the deposition of Jane Doe No. 4 within fifteen (15) days and as grounds therefore would state:

1. On August 16, 2009, the deposition of Jane Doe No. 4 was noticed for September 16, 2009 to begin at 1:00 p.m. Plaintiff's counsel had advised that Jane Doe No. 4 could not appear for a deposition prior to that time of day, i.e. 1:00 p.m.

2. The deposition was originally set at the offices of the undersigned, but Plaintiff's counsel requested that it be moved to the court reporter's office. The court reporter is Prose Court Reporting located at 250 Australian Avenue South, Suite 115, West Palm Beach, FL 33401.

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3. The undersigned's office began attempting to set the deposition of Jane Doe No. 4 on July 21, 2009. Because of the number of attorneys who would be attending (based on the court's consolidation order) coordinating the video deposition creates logistical problems.

4. On August 27, 2009, the undersigned wrote a letter to counsel for the Plaintiff indicating that Mr. Epstein would be present at the deposition. A copy of that letter is attached as **Exhibit 1**.

5. Some 13 days later, counsel for Jane Doe No. 4 filed a motion for protective order on September 9, 2009 attempting to prohibit Mr. Epstein's presence at the deposition. The Defendant immediately filed a response (an Emergency Motion) on September 11, 2009 requesting that the court enter an order allowing Epstein, the Defendant in this matter, to attend the deposition. This is common procedure. See **Exhibit 2, without exhibits**. As of the date of the deposition, the court had not ruled on these motions.

6. On Monday, counsel for Jane Doe No. 4 and the undersigned spoke, an agreement was reached that the deposition would proceed as scheduled, and that Mr. Epstein would not be in attendance other than by telephone or other means. See **Exhibit 3**.

7. The deposition was originally scheduled on the 15<sup>th</sup> Floor and moved by Prose to a larger ground floor to accommodate the number of people who were to attend

8. The undersigned and his partner, Mark T. Luttier, had scheduled a meeting with Mr. Epstein for approximately an hour prior to the deposition. It is well known through multiple newspaper articles that Mr. Epstein's office at the Florida Science Foundation is located on the 14<sup>th</sup> Floor in the same building as the court reporter and Mr. Epstein's criminal attorney, Mr. Goldberger. As well, had the court issued an order prior to the deposition that would have allowed Mr. Epstein to attend, he was readily available.

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9. As of 1:00 p.m., no order had been received from the court, so Epstein's attorneys, in good faith, decided that Epstein would not attend the deposition (as per the agreement), if we chose to proceed, which we were doing. The undersigned and Mr. Luttier specifically waited until just after 1:00 o'clock, the time that the deposition was to start, prior to leaving with Mr. Epstein. Counsel instructed Mr. Epstein to leave the building. Clearly, Defendant and his counsel simply wish to have meaningful discovery.

10. The undersigned and Mr. Luttier exited the elevator heading toward the deposition room and Mr. Epstein and his driver, Igor Zinoviev exited in separate elevator at the same time and turned to depart from through the front entrance such that he could go to his home to watch the deposition and assist counsel, from a video feed.

11. Completely unbeknownst and unexpected by anyone, apparently the Plaintiff and her attorney(s) were at the front door where Mr. Epstein was intending to exit. Upon seeing two women, one who might be the Plaintiff, Mr. Epstein immediately made a left turn and exited through a separate set of doors to the garage area. See affidavit of Jeffrey Epstein and Igor Zinoviev, **Exhibit 4 and 5, respectively.**

12. The entire incident was completely unknown to the undersigned and Mr. Luttier until Adam Horowitz, Esq. came in and announced that the deposition was not going to take place in that Mr. Epstein and his client saw one another, she was upset and therefore the deposition was cancelled from his perspective.

13. The undersigned and his partner, Mr. Luttier, had a court reporter and a videographer present. Additionally, Mr. Hill on behalf of C.M.A., Adam Langino on behalf of B.B., William Berger on behalf of three Plaintiffs were present for the deposition.

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14. Any suggestion that the chance "visual" between Mr. Epstein and Jane Doe No. 4 was "pre-planned" would be absurd, disingenuous and false. The undersigned counsel went out of his way to make certain Mr. Epstein would not be in the building after the time the deposition was set to begin. Had the Plaintiff and her counsel been in the deposition room at the appointed time, no visual contact would have occurred.

15. It is possible that Plaintiff's counsel, by filing their motion for protective order on September 9, 2009 and then advising the undersigned on September 14, 2009 that the deposition would not go forward unless the undersigned agreed to exclude Mr. Epstein from the deposition, were not prepared and/or did not want to proceed with the deposition.

16. The unilateral termination of the deposition was unnecessary, inappropriate and a substantial waste of attorney time and the costs related to the deposition (court reporter and videographer). (See **Affidavit of Robert D. Critton, Jr., Mark T. Luttier and Deposition Transcript, Exhibits 6, 7, and 8 respectively**).

17. Had the "visual" been premeditated, the cancellation of the deposition may have been justified, however, under these circumstances, it was grandstanding and improper. In that the Plaintiff has stated that she voluntary went to JE's home 50 plus times without trauma until she filed a lawsuit, this brief visual encounter from a distance should not have resulted in the unilateral cancellation of her deposition.

18. The costs associated with the court reporter and videographer total \$428.80. See **Exhibit 9.**

**Memorandum of Law In support of Motion**

A substantial amount of administrative time went into the setting up the deposition of Jane Doe No. 4. Almost two months passed from the time that the Defendant's counsel first

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requested a date for the deposition of Jane Doe No. 4. The deposition of Jane Doe No. 4 was to begin at 1:00 p.m., based on her schedule, and was moved from the undersigned's office to the office of the court reporter at her counsel's request.

Pursuant to Rule 30(d)(2) and (3)(A) and (C) and its reference to 37(a)(5), Federal Rules of Civil Procedure, the court may impose an appropriate sanction, including reasonable expenses in attorneys fees incurred by any party on a person who impedes or delays the fair examination of the deponent. In this instance, the brief visual encounter, which was completely unintended and inadvertent, should not have been grounds for Plaintiff's counsel and Plaintiff refusing to move forward with the deposition. Furthermore, pursuant to (3)(A) and (C), Plaintiff and Plaintiff's counsel had no right to unilaterally terminate/cancel the deposition and fail to move forward. Plaintiff should have continued with the deposition and filed any motion deemed appropriate post deposition. Therefore, Defendant is asking for the costs associated with the attendance of the court reporter, her transcript and the presence of the videographer. Defendant would also request reasonable fees for 2.5 hours at \$500 per hour for being required to prepare this motion and affidavits associated with same.

The records obtained thus far on Jane Doe No. 4, do not reflect any "emotional trauma" by her own account of some 50 plus visits to the Defendant's home prior to the time that she hired an attorney. Even in her interview with attorney's handpicked expert, Dr. Kliman, by her own comments, her significant emotional trauma relates to physical and verbal abuse by a prior boyfriend, Preston Vineyard, and deaths associated with two close friends, Chris and Jen. Therefore, the supposed "emotional trauma" caused by a chance encounter resulting in a "glance" at best, should not be the basis for Plaintiff unilaterally cancelling her deposition.

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**Rule 7.1 A. 3. Certification of Pre-Filing Conference**

Counsel for Defendant conferred with Counsel for Plaintiff by telephone and by e-mail; however, an agreement has not been reached.

WHEREFORE, Defendant moves this court for an order granting sanctions to include attorneys fees and costs as set forth above and costs associated with the attendance of the court reporter, the transcript and the presence of the videographer and direction that Jane Doe No. 4 appear for deposition within fifteen (15) days from the date of the court's order at the court reporter's office. If the court has not issued an order regarding Mr. Epstein's attendance at Plaintiff's deposition when Jane Doe No. 4 is to appear, the Defendant will agree that Mr. Epstein will not be present in the building on the date of her scheduled deposition such that no "inadvertent" contact will occur.



---

Robert D. Critton, Jr.  
Michael J. Pike  
Attorneys for Defendant Epstein

**Certificate of Service**

I HEREBY CERTIFY that a true copy of the foregoing was hand-delivered to the Clerk of the Court as required by the Local Rules of the Southern District of Florida and electronically mailed to all counsel of record identified on the following Service List on this 17<sup>th</sup> day of September, 2009.

**Certificate of Service**  
**Jane Doe No. 2 v. Jeffrey Epstein**  
**Case No. 08-CV-80119-MARRA/JOHNSON**

**CONFIDENTIAL**

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Respectfully submitted,

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<sup>2</sup>ADMITTED TO PRACTICE IN FLORIDA AND COLORADO

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ROBBIE M. MCKENNA  
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BETTY STOKES  
PARALEGALS  
RITA H. BUDNYK  
OF COUNSEL  
ED RICCI  
SPECIAL CONSUMER  
JUSTICE COUNSEL

August 27, 2009

**Sent by E-Mail and U.S. Mail**

Stuart S. Mermelstein, Esq.  
Herman & Mermelstein, P.A.  
18205 Biscayne Blvd.  
Suite 2218  
Miami, FL 33160

Re: Jane Doe No. 4 v. Epstein

Dear Stuart:

Please be advised that Mr. Epstein plans to be in attendance at the deposition of your client. He does not intend to engage in any conversation with your client. However, it is certainly his right as a party-defendant in the lawsuit to be present and to assist counsel in the defense of any case.

Cordially yours,

Robert D. Critton, Jr.

RDC/clz

cc: Jack A. Goldberger, Esq.

**EXHIBIT 1**

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09/12/2019

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Agency to Agency Request: 19-411

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,

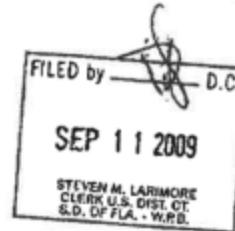
v.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.



Defendant Epstein's Emergency Motion To Strike Plaintiff's Motion For  
Protective Order (DE 292) And Emergency Motion To Allow The  
Attendance Of Jeffrey Epstein At The Deposition Of Plaintiffs And Response  
In Opposition To Plaintiffs', Jane Doe Nos. 2-8, Motion For Protective Order  
As To Jeffrey Epstein's Attendance At The Deposition Of Plaintiffs, With  
Incorporated Memorandum of Law

Defendant, Jeffrey Epstein, by and through his undersigned counsel, and pursuant to all applicable rules, including Local Rule 7.1(e) and Local Rule 12, hereby files and serves his Emergency Motion To Strike Plaintiff's Motion For Protective Order (DE 292) And Emergency Motion To Allow The Attendance Of Jeffrey Epstein At The Deposition Of Plaintiffs And Response In Opposition To Plaintiffs', Jane Doe Nos. 2-8, Motion For Protective Order As To Jeffrey Epstein's Attendance At The Deposition Of Plaintiffs. In support, Epstein states:

Introduction and Background

1. On August 19, 2009, Defendant sent a Notice for Taking the Deposition of Jane Doe No. 4 for September 16, 2009. See Exhibit "1"

EXHIBIT 2

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2. Additionally, notices were sent out in other cases in connection with deposing additional Plaintiffs.

3. No objection(s) was/were received for Jane Doe No. 4, which was the only deposition set relative to the Jane Doe 2-8 Plaintiffs.

4. On August 27, 2009, the undersigned counsel sent a letter to counsel for Jane Doe No. 4 concerning her deposition and the scheduling of same on the above date. See Exhibit "2".

5. No response was received until counsel for Jane Doe No. 4 called on September 8, 2009, approximately eight days prior to the scheduled deposition, to indicate that they now had an objection and would be filing a motion for protective order seeking to prevent Epstein from attending the deposition. Once again, Plaintiffs are attempting to stifle this litigation through their own delay tactics during discovery. Plaintiffs wish not only to attempt to force Epstein to trial without any meaningful discovery, but now wish to ban Epstein from any depositions, thereby preventing him from assisting his attorneys in his very own defense. What's next – will Plaintiffs seek to prevent Epstein from attending any of the trials that result from the lawsuits Jane Does 2-8 have initiated? Plaintiffs see millions of dollars in damages, both compensatory and punitive, against Defendant.

6. Defendant is filing this emergency motion and his immediate response to the motion for protective order to guarantee his right to be present and assist counsel in deposing not only Jane Doe No. 4, but other plaintiffs and witnesses in these cases. To hold otherwise would violate Epstein's due process rights to defend the very allegations Plaintiffs have alleged against him. Does a Defendant not have a right to be present at depositions or other court proceedings to assist counsel with the defense of his case? Does a Defendant, no matter what the charges or the allegations, have full and unbridled access to the court system and the proceedings it governs,

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including discovery? The short answer is unequivocally, yes. To hold otherwise would be a direct violation of Epstein's constitutional due process rights. Plaintiffs' attempts to play fast and loose with the law should not be tolerated.

7. As the court is aware, plaintiffs and defendants routinely attend depositions of parties and other witnesses in both State and Federal court proceedings. In fact, parties have a right under the law to attend such depositions.

8. As the court will note from Exhibit 2, counsel for the Defendant specifically stated that "Please be advised that Mr. Epstein plans to be in attendance at the deposition of your client. He does not intend to engage in any conversation with your client. However, it is certainly his right as a party-defendant in the lawsuit to be present and to assist counsel in the defense of any case." Despite this right, Plaintiffs continue to attempt to control how discovery is conducted in this case and how this court has historically governed discovery.

9. Interestingly, in Jane Doe II, the state court case, attorney Sid Garcia took the deposition of the Defendant and his client, Jane Doe II, was present throughout the deposition. This is despite her claims of "emotional trauma" set forth in her complaint. Jane Doe No. II is also a Plaintiff in the federal court proceeding *Jane Doe II v. Jeffrey Epstein* (Case No. 09-CIV-80469). Is this court going to start a precedent where it allows Plaintiffs to attend the depositions of Jeffrey Epstein, but not allow Epstein to attend their depositions (i.e., the very Plaintiffs that have asserted claims against him for millions of dollars)? This court should not condone such a practice.

10. The undersigned is well aware of the court's No-Contact Order entered on July 31, 2009 (DE 238). A copy of the order is attached as Exhibit "3". In fact, the order provides that the defendant have no direct or indirect contact with the plaintiffs, nor communications with

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the plaintiffs either directly or indirectly. However, there is no prohibition against Mr. Epstein's attendance at a deposition where, as is reflected in the order, the communication will be made to the plaintiff solely through defense counsel with one or more of plaintiffs' counsel of record present in the room in a videotaped deposition. Obviously, any inappropriate contact or communication will certainly be flagged by the attorneys in attendance. As such, Plaintiffs really have the cart before the horse in this instance (i.e., nothing prevents Epstein from attending these depositions and, to the extent Plaintiffs believe that something improper occurs at any deposition, only then can that circumstance be addressed by a motion such as the instant one.)

11. Next, Plaintiffs, Jane Does 2-8, attempt to use the Affidavit of Dr. Kliman for every motion for protective order/objection filed to date. This also includes the two most recent motions, which attempt to prevent Defendant's investigators from doing their job, such that the Defendant and his attorneys can defend the claims asserted in these cases. Plaintiffs lose sight of the fact that the court, in discussing the Non-Prosecution Agreement, inquired as to whether Epstein and his counsel could fully defend the case, which included discovery and investigation. All plaintiffs' counsel and the USAO responded in the affirmative. In fact, Plaintiffs universally agreed at the June 12, 2009 hearing on Defendant's Motion to Stay that regular discovery could proceed. See Composite Exhibit "4" at pages 26-30 & 33-34. For instance, the court asked Plaintiffs' attorneys the following questions:

**The Court:** [] So again, I just want to make sure that if the cases go forward and if Mr. Epstein defends the case as someone ordinarily would defend a case being prosecuted against him or her, that that in and of itself is not going to cause him to be subject to criminal prosecution? (Ex. "A," p.26).

\*\*\*

**The Court:** You agree he should be able to take the ordinary steps that a defendant in a civil action can take and not be concerned about having to be prosecuted? (Ex. "A," p.27).

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\*\*\*

**The Court:** Okay. But again, you're in agreement with everyone else so far that's spoken on behalf of a plaintiff that defending the case in the normal course of conducting discovery and filing motions would not be a breach? (Ex. "A," p.30).

**Mr. Horowitz – counsel for Jane Does 2-7:** Subject to your rulings, of course, yes. (Ex. "A," p.30).

\*\*\*

**The Court:** But you're not taking the position that other than possibly doing something in litigation which is any other discovery, motion practice, *investigations* that someone would ordinarily do in the course of defending a civil case would constitute a violation of the agreement? (Ex. "A," p.34).

**Ms. Villafana:** No, your honor. I mean, civil litigation is civil litigation, and being able to take discovery is part of what civil litigation is all about.... But . . . , Mr. Epstein is entitled to take the deposition of a Plaintiff and to subpoena records, etc. (Ex. "A," p.34)

12. It is clear from the transcript attached as Exhibit "4" that each of the Plaintiffs' attorneys, including Mr. Horowitz for Jane Does 2-8, expected and conceded that regular/traditional discovery would take place (i.e., discovery, motion practice, depositions, requests for records, and investigations).

13. Importantly, Plaintiffs' counsel advised the undersigned that they coordinate their efforts in joint conference calls at least two times per month. At recent depositions of two witnesses, Alfredo Rodriguez and Juan Alessi, five different plaintiffs' attorneys questioned the witnesses for approximately six to eight hours, often repeating the same or similar questions that had previously been asked.

14. Clearly, the Plaintiffs' counsel wish to control discovery and how the Defendant is allowed to obtain information to defend these cases. However, the court has ruled on a number of these issues as follows:

A. Plaintiffs' counsels sought to preclude the Defendant from serving third party subpoenas and allowing only Plaintiffs' counsel to obtain

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depositions and those materials and "filter them" to defense counsel. That motion was denied, and the court tailored a method such that the Defendant could obtain the records directly.

- B. Plaintiffs' counsels sought to limit the psychological psychiatric examination in C.M.A. v. Jeffrey Epstein and Sarah Kellen (Case No. 08-CIV-80811), as to time, subject matter and scope. However, Magistrate Johnson entered an order denying the requested restrictions.
- C. Other Plaintiffs' attorneys have said that they object to requested psychological exam of their client(s), thus motions for such exams will now need to be filed; yet all seek millions of dollars in damages for alleged psychological and emotional trauma.
- D. Many Plaintiffs' object to discovery regarding current and past employment (although they are seeking loss of income, both in past and future).
- E. All Plaintiffs object to prior sexual history, consensual and forced as being irrelevant, although in many of the medical records that are now being obtained, as well as the psychiatric exams done by Dr. Kliman, there is reference to rape, molestation, abusive relationships (both physical and verbal), prior abortions, illegal drugs and alcohol abuse.

15. Clearly, Plaintiffs wish to make allegations; however, they forget that they must meet their burden by proving same. Meeting that burden and disproving those allegations is not possible if this court allows Plaintiffs to stifle and/or control the discovery process.

16. Specifically, with regard to Jane Doe No. 4, which is the deposition set for next week, September 16, 2009, the plaintiff has in her past (see affidavit of Richard C.W. Hall, M.D., an expert psychiatrist retained by Defendant to conduct exams on various claimants.) See

**Exhibit "5"**

- A. Sought counseling due to a dysfunctional home situation, specifically with regard to her father. She described herself as being angry, bitter, depressed and having body image problems;
- B. Had an ex-boyfriend, Preston Vinyard, who was, on information and belief, a drug dealer who she lived with;
- C. Had drug and alcohol problems herself; and

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D. Spoke with two psychiatrists when she was sixteen or seventeen (before this lawsuit!) and did not reference Epstein, but did reference her boyfriend and family issues.

17. There are police reports that reflect that:

- A. In September 2004, a battery report was filed regarding Jane Doe No. 4 and Vinyard based on an argument where he grabbed her by the neck and began spitting on her and calling her a cheater.
- B. Also in September 2004, there was a domestic violence file opened where Vinyard was physically and verbally abusive to Jane Doe No. 4, his girlfriend at the time. There is reference that the two started a serious relationship in January 2002, when she was only fourteen (14) years old.
- C. Vinyard was arrested in December 2003, and charged with reckless driving and leaving the scene of the accident with Jane Doe No. 4, when their vehicle hit a tree and they fled.

18. Moreover, an ex-boyfriend of Jane Doe No. 4 died in a DUI accident and it took her two years to get over his death, and another good friend of hers, "Jen," died in an automobile accident involving drinking. Within her Amended Complaint and Answers to Interrogatories, she indicates that she went to Epstein's house on several occasions. However, at no time did she call the police, at no time did she report any traumatic or severe emotional trauma, nor alleged coercion, force or improper behavior by Epstein until she got a "lawyer" and is now pursuing claims for millions of dollars. Epstein's assistance to his attorneys at these depositions regarding the above issues is not only a constitutional due process right afforded to him but essential given the fact that this court has ruled that Plaintiffs' depositions can only occur one time, no "second bite" absent a court order.

19. Given the breadth of the allegations made against Epstein and the substantial damages sought, Epstein has an unequivocal and constitutional right to be present at any deposition such that he can assist his counsel with the defense of these cases. See infra. Dr. Hall

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also prepared affidavits regarding Jane Does 2, 3, 5, 6, and 7, which are attached to DE 247.

**Memorandum Of Law**

20. Plaintiffs' motion is required to be denied as they have failed to meet their burden showing the "extraordinary circumstances" necessary to establish good cause to support a protective order which would grant the extraordinarily rare relief of preventing a named party from attending in person the deposition of another named party. Also requiring denial of Plaintiffs' motion is the fact that it seeks to exclude Epstein from all the depositions of all the Plaintiffs in actions before this Court. Such relief is unprecedented and attempts to have this Court look at the Plaintiffs' collectively as opposed to analyzing each case based on facts versus broad speculation whether "extraordinary circumstances" exist on a case by case basis. In other words, the standard is such that the Court would be required to determine whether each Plaintiff has met her burden, should the Court consider adopting such extraordinary relief. On its face, the motion does not meet the necessary burden as to Jane Doe 4, or Jane Does 2, 3, 5, 6, or 7.

**Discussion of Law Requiring the Denial of the Requested Protective Order**

Rule 26(c)(1)(E), Fed.R.Civ.P. (2009), governing protective orders, provides in relevant part that:

(1) *In General*. A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending—or as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

\* \* \* \* \*

(E) designating the persons who may be present while the discovery is conducted;

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\* \* \* \*

In seeking to prevent the Defendant from being present in the room where the Plaintiffs are being deposed, Plaintiffs generally rely on treatise material from Wright & Miller, 8 Federal Practice & Procedure Civ.2d, §2041, and cases cited therein. The case of Gaella v. Onassis, 487 F.2d 986, at 997 (2d Cir. 1973), cited by Plaintiffs, makes clear that the exclusion of a party from a deposition "should be ordered rarely indeed." Unlike the Gaella case, there is no showing by each of the Plaintiffs that there has been any conduct by Epstein, in rightfully defending the actions filed against him, reflecting "an irrepressible intent to continue ... harassment" of any Plaintiff or a complete disregard of the judicial process, i.e. prior alleged conduct versus any action/conduct displayed in this or other cases that would justify extraordinary relief. There is absolutely no basis in the record to indicate that Epstein will act other than properly and with the proper decorum at the depositions of the Plaintiffs and abide in all respects with the No-Contact Order.

Wherefore, Epstein respectfully requests that this Court enter an order denying Plaintiffs' Motion for Protective Order, provide that Epstein is permitted to attend the depositions of the Plaintiffs that have asserted claims against him in the related matters, and for such other and further relief as this court deems just and proper.



Robert D. Crotton, Jr.  
Michael J. Pike  
Attorney for Defendant Epstein

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**Certificate of Service**

I HEREBY CERTIFY that a true copy of the foregoing was hand-delivered to the Clerk of the Court as required by the Local Rules of the Southern District of Florida and electronically mailed to all counsel of record identified on the following Service List on this 11th day of September, 2009.

**Certificate of Service**  
**Jane Doe No. 2 v. Jeffrey Epstein**  
**Case No. 08-CV-80119-MARRA/JOHNSON**

Stuart S. Mermelstein, Esq. Adam D. Horowitz, Esq. Mermelstein & Horowitz, P.A. 18205 Biscayne Boulevard Suite 2218 Miami, FL 33160 305-931-2200 Fax: 305-931-0877 <a href="mailto:ssm@sexabuseattorney.com">ssm@sexabuseattorney.com</a> <a href="mailto:ahorowitz@sexabuseattorney.com">ahorowitz@sexabuseattorney.com</a> <i>Counsel for Plaintiffs</i> <i>In related Cases Nos. 08-80069, 08-80119, 08-80232, 08-80380, 08-80381, 08-80993, 08-80994</i>	Brad Edwards, Esq. Rothstein Rosenfeldt Adler 401 East Las Olas Boulevard Suite 1650 Fort Lauderdale, FL 33301 Phone: 954-522-3456 Fax: 954-527-8663 <a href="mailto:bedwards@rra-law.com">bedwards@rra-law.com</a> <i>Counsel for Plaintiff in Related Case No. 08-80893</i>
Richard Horace Willits, Esq. Richard H. Willits, P.A. 2290 10 <sup>th</sup> Avenue North Suite 404 Lake Worth, FL 33461 561-582-7600 Fax: 561-588-8819 <i>Counsel for Plaintiff in Related Case No. 08-80811</i> <a href="mailto:reelrhw@hotmail.com">reelrhw@hotmail.com</a>	Paul G. Cassell, Esq. <i>Pro Hac Vice</i> 332 South 1400 E, Room 101 Salt Lake City, UT 84112 801-585-5202 801-585-6833 Fax <a href="mailto:cassellp@law.utah.edu">cassellp@law.utah.edu</a> <i>Co-counsel for Plaintiff Jane Doe</i>
Jack Scarola, Esq. Jack P. Hill, Esq. Searcy Denney Scarola Barnhart & Shipley, P.A.	Isidro M. Garcia, Esq. Garcia Law Firm, P.A. 224 Datura Street, Suite 900 West Palm Beach, FL 33401 561-832-7732 561-832-7137 F <a href="mailto:isidrogarcia@bellsouth.net">isidrogarcia@bellsouth.net</a> <i>Counsel for Plaintiff in Related Case No. 08-80469</i>

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West Palm Beach, FL 33409  
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*Counsel for Plaintiff, C.M.A.*

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Fax: 561-828-0983  
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*Counsel for Defendant Sarah Kellen*

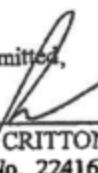
Theodore J. Leopold, Esq.  
Spencer T. Kuvin, Esq.  
Leopold-Kuvin, P.A.  
2925 PGA Blvd., Suite 200  
Palm Beach Gardens, FL 33410  
561-684-6500  
Fax: 561-515-2610  
*Counsel for Plaintiff in Related Case No. 08-08804*  
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[kezell@podhurst.com](mailto:kezell@podhurst.com)  
*Counsel for Plaintiff in Related Cases Nos. 09-80591 and 09-80656*

Jack Alan Goldberger, Esq.  
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250 Australian Avenue South  
Suite 1400  
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561-659-8300  
Fax: 561-835-8691  
[jagesq@bellsouth.net](mailto:jagesq@bellsouth.net)  
*Counsel for Defendant Jeffrey Epstein*

Respectfully submitted,

By:

  
ROBERT D. CRITTON, JR., ESQ.  
Florida Bar No. 224162  
[rcrit@bclclaw.com](mailto:rcrit@bclclaw.com)  
MICHAEL J. PIKE, ESQ.  
Florida Bar #617296  
[mpike@bclclaw.com](mailto:mpike@bclclaw.com)  
BURMAN, CRITTON, LUTTIER & COLEMAN  
303 Banyan Blvd., Suite 400  
West Palm Beach, FL 33401  
561/842-2820 Phone  
561/515-3148 Fax  
*(Co-Counsel for Defendant Jeffrey Epstein)*

CONFIDENTIAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY E. EPSTEIN,

Defendant.

Related Cases:  
08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.

AFFIDAVIT OF JEFFREY E. EPSTEIN

STATE OF FLORIDA ) SS  
COUNTY OF PALM BEACH )

BEFORE ME, the undersigned authority, personally appeared Jeffrey E. Epstein  
having personal knowledge and being duly sworn, deposes and says:

1. My office is located at 250 Australian Avenue South, 14<sup>th</sup> Floor, West Palm Beach, Florida. Its location has been well publicized in the news.
2. I met with my attorneys, Robert D. Critton, Jr. and Mark T. Luttier, at 12:30 p.m. in preparation for the deposition of Jane Doe No. 4 which was to take place beginning at 1:00 p.m. on September 16, 2009.
3. I was aware of the motion for protective order which had been served in this case by counsel for Jane Doe No. 4 and the Emergency Motion To Strike Plaintiff's Motion For

EXHIBIT 4

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**Robert D. Critton Jr.**

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**From:** Adam Horowitz [ahorowitz@sexabuseattorney.com]  
**Sent:** Tuesday, September 15, 2009 11:43 AM  
**To:** Michael J. Pike; Robert D. Critton Jr.  
**Cc:** Stuart Mermelstein  
**Subject:** Jane Does v. Epstein

Please allow this to confirm that Jeffrey Epstein will not attend tomorrow's deposition of Jane Doe No. 4 (in the absence of a Court order permitting him to attend). We understand you may wish to have your client listen in by telephone or view a video feed of the deposition, but will not be seen by our client.

Regards,

**Adam D. Horowitz, Esq.**  
[www.sexabuseattorney.com](http://www.sexabuseattorney.com)  
Mermelstein & Horowitz, P.A.  
18205 Biscayne Boulevard  
Suite 2218  
Miami, FL 33160  
[ahorowitz@sexabuseattorney.com](mailto:ahorowitz@sexabuseattorney.com)  
Tel: (305) 931-2200  
Fax: (305) 931-0877

---

**From:** Michael J. Pike [mailto:MPike@bclclaw.com]  
**Sent:** Tuesday, September 15, 2009 10:54 AM  
**To:** Stuart Mermelstein; Adam Horowitz  
**Cc:** Robert D. Critton Jr.; Jessica Cadwell  
**Subject:** FW: Jane Does v. Epstein

Gentlemen:

I sent the e-mail below weeks ago. I have not heard back from you. I'm entitled to the questionnaires Kliman had your clients fill out and which he utilized to formulate his opinions. I need them by tomorrow since they are well over due. If not, I will have no other choice to file a motion, which I do not want to do given how we have worked together on these issues in the past. Let me know, pike.

---

**From:** Michael J. Pike  
**Sent:** Tuesday, August 18, 2009 11:37 AM  
**To:** Robert D. Critton Jr.; Stuart Mermelstein; Ashlie Stoken-Baring; Connie Zaguirre  
**Subject:** Jane Does v. Epstein

From reviewing the transcripts, it seems Dr. Kliman utilized Questionnaire's with all of your clients. I need them. Please advise of your position. I'm sure you will produce since they are

**EXHIBIT 3**

9/15/2009

09/12/2019

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discoverable. Thanks.

Michael J. Pike, Esq.  
Burman, Critton, Luttier & Coleman  
515 N. Flagler Dr., Ste. 400  
West Palm Beach, Florida 33401  
Telephone: (561) 842-2820  
Facsimile (561) 844-6929

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9/15/2009

09/12/2019

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Jane Doe No. 4 v. Epstein  
Page 2

Protective Order And Emergency Motion To Allow The Attendance Of Jeffrey Epstein At The Deposition Of Plaintiffs And Response In Opposition To Plaintiffs', Jane Doe Nos. 2-8, Motion For Protective Order As To Jeffrey Epstein's Attendance At The Deposition Of Plaintiffs, With Incorporated Memorandum of Law, which had been filed on my behalf such that I could attend the deposition and assist my attorneys in my defense.

4. I also understood that as of 1:00 p.m. on September 16, after I had finished speaking with my attorneys that the court had not ruled regarding the above-referenced motions.

5. I was instructed by my attorneys that I could not attend the deposition and therefore a video feed was set up such that I could view the deposition from my home.

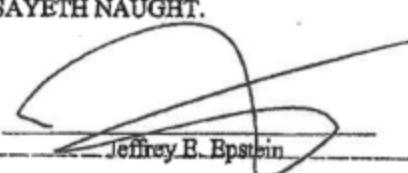
6. I also understood that my attorneys did not want me in the building after the deposition began.

7. At 1:04 p.m. after we assumed that everyone would be in the deposition room, my lawyers went down on one elevator and I went down on another elevator with my driver, Igor Zinoviev, both exiting at approximately the same time.

8. I asked Igor where he had parked, and he said "out front". We exited the elevator, I walked toward the front door. Near the front door, I saw a taller woman and a shorter woman who I thought might be Jane Doe No. 4 and immediately turned to my left and went out a separate exit to the garage.

9. At no time did I speak with or attempt to interact with either women.

FURTHER THE AFFIANT SAYETH NAUGHT.



Jeffrey E. Epstein

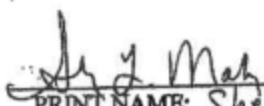
**CONFIDENTIAL**

Jane Doe No. 4 v. Epstein  
Page 3

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Jeffrey E. Epstein known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above named person: Jeffrey Epstein, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this day of Sept. 17, 2009.

  
PRINT NAME: Sherry L. Mahoney (SEAL)  
NOTARY PUBLIC/STATE OF FLORIDA  
COMMISSION NO.:  
MY COMMISSION EXPIRES:  


CONFIDENTIAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,  
v.

JEFFREY EPSTEIN,

Defendant.

Related Cases:  
08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.

AFFIDAVIT OF IGOR ZINOVIEV

STATE OF FLORIDA ) SS  
COUNTY OF PALM BEACH )

BEFORE ME, the undersigned authority, personally appeared Igor Zinoviev  
having personal knowledge and being duly sworn, deposes and says:

1. I work for Jeffrey Epstein. I as well drive him from place to place.
2. At approximately 1:04 p.m., Mr. Epstein and I went down in the elevator from the 14<sup>th</sup> floor to the ground level. I was to drive Mr. Epstein to his home. His lawyers went down at approximately the same time in a separate elevator.
3. I parked the car at the front entrance. As I walked toward the front door and noticed that Mr. Epstein quickly turned to the left so as to exit through the door to the garage of the building rather than the front entrance.

EXHIBIT 5

**CONFIDENTIAL**

Jane Doe No. 4 v. Epstein  
Page 2

4. At no time did Mr. Epstein speak or gesture to anyone, including the individuals whom I saw near the front door.

5. At no time did I speak with the individuals at the main entrance.

FURTHER THE AFFIANT SAYETH NAUGHT.

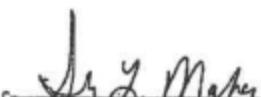
  
Igor Zinoviev

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Igor Zinoviev known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above named person: Jeffrey Epstein, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this day of Sept. 17, 2009.



  
PRINT NAME: Sheryl L. Mahoney (SEAL)  
NOTARY PUBLIC/STATE OF FLORIDA  
COMMISSION NO.:  
MY COMMISSION EXPIRES:

**CONFIDENTIAL**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.

AFFIDAVIT OF ROBERT D. CRITTON, JR.

STATE OF FLORIDA ) SS  
COUNTY OF PALM BEACH )

BEFORE ME, the undersigned authority, personally appeared Robert D. Critton, Jr., having personal knowledge and being duly sworn, deposes and says:

1. I am counsel for Jeffrey Epstein in the above-styled matter and other civil lawsuits.
2. The information contained in motion, paragraphs 1 through 9, 11, 13, 14 and 16 is true and accurate based on my personal knowledge.
3. The costs and fees set forth in the motion are true, correct and reasonable.

FURTHER THE AFFIANT SAYETH NAUGHT.

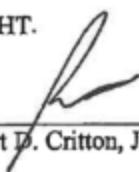
  
Robert D. Critton, Jr.

EXHIBIT 6

**CONFIDENTIAL**

Jane Doe No. 4 v. Epstein  
Page 2

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Robert D. Critton, Jr., known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above named person: Robertly Brown, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this day of 17, September, 2009.

*Jessica Cadwell*  
PRINT NAME: JESSICA CADWELL

NOTARY PUBLIC/STATE OF FLORIDA  
COMMISSION NO.: DD853529  
MY COMMISSION EXPIRES: 04/19/13



**CONFIDENTIAL**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA-JOHNSON

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80581, 09-80656, 09-80802, 09-81092.

**AFFIDAVIT OF MARK T. LUTTIER**

STATE OF FLORIDA ) SS  
COUNTY OF PALM BEACH )

BEFORE ME, the undersigned authority, personally appeared Mark T. Luttier., having personal knowledge and being duly sworn, deposes and says:

1. I am counsel for Jeffrey Epstein in the above-styled matter and other civil lawsuits.
2. The information contained in motion, paragraphs 1 through 10, 11, 13, 14 and 16 is true and accurate based on my personal knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT.

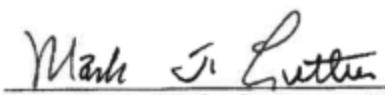
  
Mark T. Luttier

EXHIBIT 7

**CONFIDENTIAL**

Jane Doe No. 4 v. Epstein  
Page 2

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Mark T. Luttier, known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above named person: personally known, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this 17<sup>th</sup> day of Sept., 2009.

*Jessica Cadwell*  
PRINT NAME: JESSICA CADWELL

NOTARY PUBLIC/STATE OF FLORIDA

COMMISSION NO.: DD 853529

MY COMMISSION EXPIRES: 04/19/13



**CONFIDENTIAL**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CV-80119-MARRA/JOHNSON

JANE DOE NO.2,

Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.

Related cases:

08-80232, 08-08380, 08-80381, 08-80994,  
08-80993, 08-80811, 08-80893, 09-80469,  
09-80591, 09-80656, 09-80802, 09-81092

DEPOSITION OF JANE DOE #4

Wednesday, September 16, 2009  
1:03 - 1:08 p.m.

250 Australian Avenue South  
Suite 115  
West Palm Beach, Florida 33401

Reported By:  
Cynthia Hopkins, RPR, FPR  
Notary Public, State of Florida  
Prose Court Reporting

EXHIBIT 8

(561) 832-7500 PROSE COURT REPORTING AGENCY, INC. (561) 832-7506  
Electronically signed by cynthia hopkins (601-051-976-2934) d2a436e3-85f3-42e6-9641-6687d2dff9e5

09/12/2019

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Agency to Agency Request: 19-411

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Page 2	Page 4
1 APPEARANCES: 2 On behalf of the Plaintiff: 3 ADAM D. HOROWITZ, ESQUIRE 4 MERMELSTEIN & HOROWITZ, P.A. 5 18205 Biscayne Boulevard 6 Suite 2218 7 Miami, Florida 33160 8 Phone: 305.931.2200	1 PROCEEDINGS 2 --- 3 MR. HOROWITZ: Adam Horowitz, counsel for 4 Plaintiff, Jane Doe 4. 5 MR. CRITTON: Cindy, what time is it? 6 THE COURT REPORTER: It is 1:03. 7 MR. BERGER: William J. Berger for LM and 8 EW. 9 MR. HILL: Jack Hill for CMA. 10 MR. LANGINO: Adam Langino from 11 Leopold Kuvin on behalf of BB. 12 MR. LUTTIER: Mark Luttier on behalf of 13 Burman, Critton, Luttier & Coleman for the 14 Defendant. 15 MR. CRITTON: Robert Critton on behalf of 16 Defendant, Jeffrey Epstein. 17 MR. HOROWITZ: This is Adam Horowitz. 18 We're canceling today's deposition. Before 19 appearing here today, we had a stipulation with 20 Defense counsel that Mr. Jeffrey Epstein, the 21 Defendant, would not be here. He would not 22 cross paths with our client. 23 And immediately as we were approaching the 24 deposition room, he made face-to-face contact 25 with our client. He was just feet away from
17 On behalf of LM and EW: 18 WILLIAM J. BERGER, ESQUIRE 19 ROTHSTEIN, ROSENFIELD, ADLER 20 401 East Las Olas Boulevard 21 Suite 1650 22 Fort Lauderdale, Florida 33301 23 Phone: 954.322.3456	1 her and intimidated her, and for that reason 2 we're not going forward. 3 MR. CRITTON: I didn't see any contact 4 because I, obviously, was not out there. We 5 started at about – when you came in it was 6 approximately 1:03. Mr. Epstein has an office 7 here at the Florida Science Foundation. Had 8 you been here at 1:00, your paths never would 9 have crossed because Mr. Epstein was leaving 10 the building. I instructed him to leave the 11 building so that he would not be here. 12 He was going to appear by way of Skype so 13 that he could be on a video camera so that he 14 could see this. 15 (Mr. Goldberger entered the room.) 16 MR. CRITTON: Had you been here on time, 17 and not faulting, I am just saying had you been 18 here on time at 1:00, as everyone else seemed 19 to be here at least get here before you did, 20 Adam, you and your client, your paths never 21 would have crossed. 22 I directed Mr. Epstein to leave the 23 building so he would not be here so that there 24 would be no way that your paths could have 25 crossed. It was neither my intent nor was it
1 APPEARANCES CONTINUED... 2 3 On behalf of BB: 4 ADAM J. LANGINO, ESQUIRE 5 LEOPOLD KUVIN 6 2925 PGA Boulevard 7 Suite 200 8 Palm Beach Gardens, Florida 33410 9 Phone: 561.515.1400	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

2 (Pages 2 to 5)

(561) 832-7500 PROSE COURT REPORTING AGENCY, INC. (561) 832-7506  
Electronically signed by cynthia hopkins (601-051-976-2934) d2a436e3-95f3-42e6-9641-6687d2dff9e5

09/12/2019

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Agency to Agency Request: 19-411

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<p>1 my client's intent specifically, because I also 2 advised him that he was not to cross paths, not 3 to have any contact with your client, and 4 certainly by our agreement not to be here today 5 for the deposition.</p> <p>6 MR. HOROWITZ: And at approximately 1:00 7 is exactly when my client crossed paths with 8 Jeffrey Epstein. And not only did he cross 9 paths but he proceeded to stare her down just 10 feet away from her. For that reason she became 11 an emotional wreck and cannot proceed with the 12 deposition. She's simply not in an emotional 13 state to do so.</p> <p>14 And in addition Mr. Epstein violated the 15 agreement between counsel that he would not 16 cross paths or come into contact with our 17 client. And it will be also for the criminal 18 court judge to decide whether he has violated a 19 no-contact order. I have nothing else to say.</p> <p>20 MR. CRITTON: Again I instructed 21 Mr. Epstein to leave the building so absolutely 22 no contact could occur between he and 23 Mr. Horowitz and his client nor anyone else. 24 Until the court, until either Judge Marra or 25 Judge Johnson ruled on the issue as to whether</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">CERTIFICATE</p> <p>STATE OF FLORIDA COUNTY OF PALM BEACH</p> <p>I, Cynthia Hopkins, Registered Professional Reporter and Florida Professional Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.</p> <p>Dated this 16th day of September, 2009.</p> <p><i>Cynthia J. Hopkins</i>  Cynthia Hopkins, RPR</p>
<p>1 or not he could appear at the depositions of 2 not only Jane Doe 4 but any other individuals, 3 so you do what you need to do.</p> <p>4 MR. HOROWITZ: Off the record. 5 (The Deposition was concluded.)</p> <p>6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	

3 (Pages 6 to 8)

(561) 832-7500 PROSE COURT REPORTING AGENCY, INC. (561) 832-7506  
Electronically signed by cynthia hopkins (601-051-976-2934) d2a436e3-95f3-42e6-9641-6687d2dff9e5

09/12/2019

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Agency to Agency Request: 19-411

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