

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

JANE DOE,

CASE NO. 08-CV-80893-CIV-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN, et al.

Defendant.

\_\_\_\_\_ /

Related Cases:

08080119, 08-80232, 08-80380, 08-80381,  
08-80994, 08-80811, 08-80893, 09-80469,  
09-80591, 09-80656, 09-80802, 09-81092

\_\_\_\_\_ /

**NON-PARTY, JEAN LUC BRUHNEL'S RESPONSE TO PLAINTIFF  
JANE DOE'S MOTION FOR AN ORDER TO SHOW CAUSE AND FOR  
AN ORDER TO COMPEL AND INCORPORATED MEMORANDUM OF LAW**

Non-party Jean Luc Bruhnel hereby files his Response to Plaintiff, Jane Doe's Motion for an Order to Show Cause and for an Order to Compel and Incorporated Memorandum of Law which was filed on March 10, 2010. (DE#483). Plaintiff's counsel seeks to compel Mr. Bruhnel, a french citizen who is not a party to the instant action, to sit for a deposition that was canceled and for which he has never been re-noticed. This motion is premature at best, and frivolous.

While visiting New York, Mr. Bruhnel was served with a Subpoena and Notice of Videotape Deposition in this matter.<sup>1</sup> As a courtesy, undersigned counsel for Mr. Bruhnel

\_\_\_\_\_

<sup>1</sup> Please see Exhibit A, annexed hereto and incorporated by reference.

agreed to produce Mr. Bruhnel for deposition in Florida on November 3, 2010 for the convenience of the parties because Mr. Bruhnel had plans to travel to Florida at that time. The videotape deposition was accordingly canceled. Two new deposition notices were then e-mailed to counsel for Bruhnel, both of which emanated from related cases in *Florida Circuit Court*, with no additional notice emanating from the instant matter before this Court.<sup>2</sup> That scheduled deposition was then canceled by agreement of the parties, who mutually agreed that plaintiff's counsel's secretary would call counsel for Mr. Bruhnel to reset the deposition.

Neither plaintiff's counsel nor his secretary called to reschedule the deposition until January, 2010. In the intervening time, *all depositions* in the myriad related matters had been canceled, upon information and belief, due to the scandal involving plaintiff's counsel's previous law partner. Further, Mr. Bruhnel had left the United States with no firm plan to return, which was conveyed to plaintiff's counsel during a telephone conversation in January.

Mr. Bruhnel's counsel attempted to secure firm dates on which Mr. Bruhnel would be traveling to the United States, but was unable to do so. Undersigned counsel accordingly informed plaintiff's counsel that she could not secure any firm dates. When plaintiff's counsel insisted that Mr. Bruhnel provide deposition dates, plaintiff's counsel was informed that Mr. Bruhnel could not be compelled to return to the United States. Undersigned counsel told plaintiff's counsel that there were appropriate mechanisms through which he could secure Mr.

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<sup>2</sup> Please see Exhibit B, annexed hereto and incorporated by reference.

Bruhnel's testimony abroad pursuant to Florida, Federal and International law. Indeed, undersigned counsel directed plaintiff's counsel to the Florida Rules of Civil Procedure and the Hague Convention, each of which provide specific mechanisms for the securing of testimony abroad.

Plaintiff's counsel has *never* served Mr. Bruhnel or undersigned counsel with a re-notice for deposition since the cancellation of the prior scheduled depositions, and has never attempted to avail himself of proper legal procedures to secure Mr. Bruhnel's testimony abroad. Further, contrary to plaintiff's counsel's Certification to this court, plaintiff's counsel *never* conferred with undersigned counsel for Mr. Bruhnel regarding the instant Order to Show Cause and for an Order to Compel.

#### **MEMORANDUM OF LAW**

As stated above, the previously scheduled depositions were canceled by agreement of the parties herein and Mr. Bruhnel has *never* been re-noticed for deposition. The motion currently before the court is therefore premature and frivolous. Regardless, it is respectfully noted that the Court lacks authority to compel Mr. Bruhnel to return to the United States for deposition. Indeed, the Federal Rules of Civil Procedure specifically decline to confer upon the Court the power to compel foreign nationals to appear before it. See Fed. Rules Civ.Proc. Rule 45, 28 USC § 1783.

The Florida Rules of Civil Procedure and the Hague Convention, however, have each

adopted procedural rules to facilitate the deposition of a non-party foreign national. Indeed, The Uniform Foreign Depositions Act, as adopted by Florida in section 92.251 (“UFDL”) provides a road map for litigants seeking to secure evidence from foreign non-party witnesses, stating:

(2) Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness or witnesses in this state, *witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purposes of taking testimony in proceedings pending in this state.*

§ 92.251 Florida statutes.

Thus, whenever a Florida litigant desires to depose a witness residing in another state, that litigant must first secure the appointment of a commissioner from the court where the litigation originates. See Freedom Newspapers, Inc., 507 So.2d 1180 (Fla 2<sup>d</sup> DCA 1987), at 1183. The foreign litigant may then apply to the court having personal jurisdiction over the witness for the process necessary to secure the attendance of the witness. *Id.* (citing Travelers Indem. Co. v. Hill, 388 So.2d 648 (Fla. 5th DCA 1980)). See Greenlight Financial Services, Inc. v. Union America Mortg., Inc., 971 So.2d 983 (Fla. 3<sup>d</sup> DCA 2008). This may be done through mechanisms provided via The Hague Convention, to which France is a signatory. Given that several cases are currently pending in Florida Circuit Court that are related to the instant matter, plaintiff may avail herself of this mechanism to secure Mr. Bruhnel’s testimony, but has chosen not to. Accordingly, there has been no malfeasance herein by Mr. Bruhnel or his counsel, only nonfeasance by plaintiff’s counsel.

Plaintiff's counsel has misrepresented to this court that he spoke to Mr. Bruhnel's counsel about this motion prior to filing it with the Court. Undersigned counsel for Mr. Bruhnel was *never* notified in any manner that any such motion was being prepared or filed.

Plaintiff's counsel has further misrepresented to this Court that undersigned counsel for Mr. Bruhnel stated that Mr. Bruhnel, "has been out of this country since prior to the New Year with no plans to return." In fact, undersigned counsel has consistently told Plaintiff's counsel that she was *unaware* of Mr. Bruhnel's travel schedule and that she did not know when Mr. Bruhnel planned to return to this country.

WHEREFORE, JEAN LUC BRUHNEL, a non-party to the instant matter, and undersigned counsel for Mr. Bruhnel, respectfully request that the Court DENY plaintiff's Motion for an Order to Show Cause and an Order to Compel in its entirety. Mr. Bruhnel and undersigned counsel further respectfully request that the Court impose sanctions and attorney's fees incurred in the defense of Plaintiff's frivolous motion, and for whatever further relief this Court deems appropriate.

Dated: March 12, 2010

Respectfully submitted,

TAMA BETH KUDMAN, P.A.  
Attorney for Non-Party Witness, Jean Luc Bruhnel  
777 South Flagler Drive  
Suite 800 - West Tower

West Palm Beach, FL 33401

Phone: [REDACTED]

[REDACTED] [REDACTED]  
[REDACTED]

By: s/ Tama Beth Kudman

TAMA BETH KUDMAN

Fla. Bar No.: [REDACTED]

**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2010, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all parties identified via transmission of Notices of Electronic Filing generated by CM/ECF.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV -MARRA/JOHNSON

JANE DOE,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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**NOTICE OF TAKING VIDEOTAPED DEPOSITION**

**PLEASE TAKE NOTICE** that the Plaintiff, JANE DOE, will take the deposition of **Jean Luc Bruhel** on **Tuesday, September 22, 2009, at 10:00 a.m., at:**

**Esquire Court Reporters  
One Penn Plaza  
Suite 4715  
New York, NY 10119**

The deposition shall be conducted pursuant to the Florida Rules of Civil Procedure and shall continue day to day, weekends and holidays excepted, until completed.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been served by U.S. Mail and email transmission this 11<sup>th</sup> day of August, 2009 to all those on the attached Service List.

**ROTHSTEIN ROSENFELDT ADLER**

Attorneys for Plaintiff

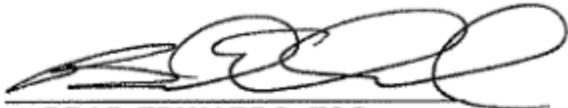
401 East Las Olas Blvd., Suite 1650

Fort Lauderdale, Florida 33301

Tel: (954) 522-3456

Fax: (954) 527-8663

Email: [bedwards@rra-law.com](mailto:bedwards@rra-law.com)

By: 

BRAD EDWARDS, ESQ.

Florida Bar No.: 542075

cc: Esquire Court Reporters

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JANE DOE

Plaintiff

v.

JEFFREY EPSTEIN

Defendant

Civil Action No. 08-90893CIV-MARRA/JOHNSO

(If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION

To: Jean Luc Bruhel, 301 E. 66th Street, New York, NY

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Esquire Court Reporters, One Penn Plaza Suite 4715, New York, NY

Date and Time:

09/22/2009 10:00 am

The deposition will be recorded by this method:

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Brad Edwards, Esq., Rothstein Rosenfeldt Adler, 401 E. Las Olas Blvd., Suite 1650, Fort Lauderdale, Florida 33301 Bedwards@rra-law.com. (954) 522 2346

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action (Page 2)

Civil Action No. 08-90893CIV-MARRA/JOHNSO

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because \_\_\_\_\_; or

Other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

*Depo*

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR PALM  
BEACH COUNTY, FLORIDA

B.B.,  
Plaintiff,

Case No: 502008CA37319XXXX MB AB

vs.

JEFFREY EPSTEIN,  
Defendant.

**PLAINTIFF'S NOTICE OF TAKING VIDEOTAPED DEPOSITION**

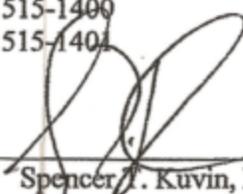
PLEASE TAKE NOTICE THAT THE UNDERSIGNED ATTORNEY WILL TAKE THE DEPOSITION OF:

<b><u>NAME:</u></b>	<b><u>DATE AND TIME:</u></b>	<b><u>LOCATION:</u></b>
Jean Luc Bruhel	November 3, 2009 10:00 AM	Esquire Court Reporters 515 N. Flagler Drive West Palm Beach, FL 33401

upon an oral examination before a Notary Public or officer authorized by law to take depositions in the State of New York. The oral examination will continue from day to day until completed. The depositions are being taken for purposes of discovery, for use at trial or are being taken for such other purposes as are permitted under the Rules of the Court.

**WE HEREBY CERTIFY** that a true and correct copy of this Notice was mailed this 9 day of October, 2009 to: Jack A. Goldberger, Esq., 250 Australian Avenue, Suite 1400, West Palm Beach, FL 334101; Bruce E. Reinhart, Esq., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401; Robert D. Critton, Jr., Michael J. Pike, 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401.

LEOPOLD-KUVIN, P.A.  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
(561) 515-1400  
(561) 515-1401

By:   
Spencer J. Kuvin, Esq.  
Florida Bar No: 089737

*CO. JE. DT  
May 2009*

*Depo*

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
CIVIL DIVISION

L.M.,  
Plaintiff,  
vs.  
JEFFREY EPSTEIN,  
Defendant.

CASE NO.: 502008CA028051XXXMB AD

NOTICE OF TAKING DEPOSITION

PLEASE TAKE NOTICE that the attorney for Defendant in the above-styled cause will take the deposition of **Jean Luc Bruhnel** on **November 3, 2009 at 10:00 a.m.** for the purposes of discovery at the following location:

**Esquire Court Reporters  
515 N Flagler Dr  
West Palm Beach, FL 33401-4321**

Said deposition will be taken before Esquire Court Reporters, a Notary Public or any officer authorized to administer oaths by the laws of the State of Florida, and a person who is neither a relative, nor employee, nor attorney, nor counsel of any of the parties and who is neither a relative nor employee of such attorney or counsel, and who is not financially interested in the action.

Said deposition will be taken pursuant to Florida Rules of Civil Procedure in such cases provided. Said oral examination will continue from hour to hour and from day to day until completed.

*cc-JE, DI  
depo*

Case No. 502008CA028051XXXXMB AD

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been served via U.S. Mail and Facsimile this 7<sup>th</sup> day of October, 2009 to: Michael Burman, Esq., & Robert D. Critton, Jr., Esq., **Burman, Critton, et al.**, 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401; Jay Howell, Esq., **Jay Howell & Assoc.**, 644 Cesery Boulevard, Suite 250, Jacksonville, FL 32211; and Jack Alan Goldberger, Esq., **Atterbury Goldberger et al.**, 250 Australian Ave. South, Suite 1400, West Palm Beach, FL 33401 and a courtesy copy to Tama Kudman, Esq., 444 PGA Boulevard, Suite 600, West Palm Beach, Florida 33410.

ROTHSTEIN ROSENFELDT ADLER  
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401 East Las Olas Blvd., Suite 1650  
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