

CLOSED, LRJ

U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:08-cv-80804-KAM

Doe v. Epstein et al
Assigned to: Judge Kenneth A. Marra
Referred to: Magistrate Judge Linnea R. Johnson
Case in other court: 15th Judicial Circuit, 50 2008 CA
006596
Cause: 28:1331 Federal Question

Date Filed: 07/18/2008
Date Terminated: 10/03/2008
Jury Demand: Plaintiff
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

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Date Filed	#	clear	Docket Text
07/18/2008	<u>1</u>	<input type="checkbox"/> 9.4 MB	NOTICE OF REMOVAL Filing fee \$350.00 Receipt#: 724495, filed by [REDACTED] Jeffrey Epstein, [REDACTED] [REDACTED]. (Attachments: # <u>1</u> exhibits, # <u>2</u> exhibits)(jgn) (Entered: 07/21/2008)

07/25/2008	<u>2</u>	<input type="checkbox"/> 19.6 KB	MOTION for Hearing <i>Defendants Jeffrey Epstein and [REDACTED]</i> Request for Oral Argument by [REDACTED], Jeffrey Epstein. (Tein, Michael) (Entered: 07/25/2008)
07/25/2008	<u>3</u>	<input type="checkbox"/> 71.5 KB	MOTION for Extension of Time to File Answer <i>Defendants Jeffrey Epstein and [REDACTED]</i> Motion for <i>Enlargement of Time to Answer or Otherwise Respond to Complaint</i> by [REDACTED], Jeffrey Epstein. (Tein, Michael) (Entered: 07/25/2008)
07/25/2008	<u>4</u>		Sealed Document. (igo) UNSEALED see DE <u>17</u> Modified on 9/3/2008 (ral). (Entered: 07/25/2008)
07/25/2008	<u>5</u>		Sealed Document. (igo) UNSEALED see DE <u>18</u> Modified on 9/3/2008 (ral). (Entered: 07/25/2008)
07/25/2008	<u>17</u>	<input type="checkbox"/> 120.4 KB	UNSEALED MOTION to File Under Seal by [REDACTED], Jeffrey Epstein. (ral) (Entered: 09/03/2008)
07/25/2008	<u>18</u>	<input type="checkbox"/> 1.7 MB	UNSEALED MOTION to Stay by [REDACTED], Jeffrey Epstein. (ral) (Entered: 09/03/2008)
08/06/2008	<u>6</u>	<input type="checkbox"/> 68.5 KB	ORDER DENYING MOTION TO SEAL. The Clerk shall unseal DE 4 Sealed Document, 5 Sealed Document and make them available for public inspection through CM/ECF. Signed by Judge Kenneth A. Marra on 8/5/08. (ir) (Entered: 08/06/2008)
08/06/2008	<u>7</u>	<input type="checkbox"/> 77.3 KB	ORDER DENYING MOTION TO STAY and denying as moot <u>2</u> Motion for Hearing. Signed by Judge Kenneth A. Marra on 8/5/08. (ir) (Entered: 08/06/2008)
08/08/2008	<u>8</u>	<input type="checkbox"/> 79.5 KB	MOTION <i>Defendant Jeffrey Epstein's Opposed Motion to Align Response Date</i> by Jeffrey Epstein. (Attachments: # <u>1</u> Text of Proposed Order)(Tein, Michael) (Entered: 08/08/2008)
08/13/2008	<u>9</u>	<input type="checkbox"/> 27.4 KB	Unopposed MOTION for Extension of Time to File <i>CIVIL RICO CASE STATEMENT</i> by Jane Doe. (Kuvin, Spencer) (Entered: 08/13/2008)
08/14/2008	<u>10</u>		ENDORSED ORDER granting <u>9</u> Motion for Extension of Time to File Civil Rico Case Statement. Signed by Judge Kenneth A. Marra on 8/14/08. (ir) (Entered: 08/14/2008)
08/18/2008	<u>11</u>	<input type="checkbox"/> 1.9 MB	MOTION to Remand by Jane Doe. (Attachments: # <u>1</u> Exhibit Defendant Epstein Sentence)(Kuvin, Spencer) (Entered: 08/18/2008)
08/21/2008	<u>12</u>	<input type="checkbox"/> 0.9 MB	Plaintiff's MOTION to Preserve Evidence by Jane Doe. (Attachments: # <u>1</u> Exhibit 1)(Kuvin, Spencer) (Entered: 08/21/2008)
08/21/2008	<u>13</u>	<input type="checkbox"/> 51.5 KB	ORDER requiring response to <u>12</u> Plaintiff's MOTION to Preserve Evidence and Expedite Discovery. Response due by 5:00 p.m. 8/26/08. Signed by Judge Kenneth A. Marra on 8/21/08. (ir) (Entered: 08/21/2008)
08/21/2008			Reset Deadlines as to <u>12</u> Plaintiff's MOTION to Preserve Evidence.

			Responses due by 8/26/2008 (ir) (Entered: 08/21/2008)
08/22/2008	<u>14</u>	<input type="checkbox"/> 14.6 KB	RESPONSE to Motion re <u>12</u> Plaintiff's MOTION to Preserve Evidence <i>Epstein's Response to Motion to Preserve Evidence [DE 12]</i> filed by Jeffrey Epstein. Replies due by 9/2/2008. (Tein, Michael) (Entered: 08/22/2008)
08/29/2008	<u>15</u>	<input type="checkbox"/> 54.0 KB	ORDER granting <u>8</u> Motion Align Response Date. Response due 9/4/08. Signed by Judge Kenneth A. Marra on 8/28/08. (ir) (Entered: 08/29/2008)
08/29/2008			Reset Answer Due Deadline: Jeffrey Epstein response due 9/4/2008. (ir) (Entered: 08/29/2008)
08/29/2008	<u>16</u>	<input type="checkbox"/> 244.2 KB	NOTICE by [REDACTED] <i>Notice of Lack of Compliance with Local Rule 7.1.8.3 and Notice of Incorrect Assertion of Certificate of Compliance with Local Rule 7.1.8.3, Inaccurate Characterization of Plaintiff's Motion for Enlargement of Time to File Civil Rico Case Statement Pursuant to Local Rule 12.1 as Unopposed, and Improper Submission of Proposed Order Regarding Plaintiff's Unopposed Motion for Enlargement to File Civil Rico Case Statement Pursuant to Local Rule 12.1</i> (Attachments: # <u>1</u> Exhibit Unopposed Motion for Enlargement of Time to File Civil Rico Case Statement Pursuant to Local Rule 12.1, and Proposed Order)(McIntosh, Douglas) (Entered: 08/29/2008)
09/04/2008	<u>19</u>	<input type="checkbox"/> 468.2 KB	Defendant's MOTION to Dismiss <u>1</u> Notice of Removal <i>Amended Complaint</i> by Jeffrey Epstein. Responses due by 9/22/2008 (Tein, Michael) (Entered: 09/04/2008)
09/05/2008	<u>20</u>	<input type="checkbox"/> 55.2 KB	ORDER granting <u>12</u> Motion to Preserve Evidence. Signed by Judge Kenneth A. Marra on 9/4/08. (ir) (Entered: 09/05/2008)
09/05/2008	<u>21</u>	<input type="checkbox"/> 0.7 MB	RESPONSE in Opposition re <u>11</u> MOTION to Remand filed by [REDACTED] Jeffrey Epstein. (Tein, Michael) (Entered: 09/05/2008)
09/15/2008	<u>22</u>	<input type="checkbox"/> 33.8 KB	REPLY to Response to Motion re <u>11</u> MOTION to Remand filed by Jane Doe. (Kuvin, Spencer) (Entered: 09/15/2008)
09/16/2008	<u>23</u>	<input type="checkbox"/> 89.3 KB	NOTICE of Substitution of Counsel by Theodore Jon Leopold on behalf of Jane Doe (Leopold, Theodore) (Entered: 09/16/2008)
09/18/2008	<u>24</u>	<input type="checkbox"/> 36.1 KB	Unopposed MOTION for Extension of Time to File Response as to <u>19</u> Defendant's MOTION to Dismiss <u>1</u> Notice of Removal <i>Amended Complaint</i> by Jane Doe. (Attachments: # <u>1</u> Text of Proposed Order) (Kuvin, Spencer) (Entered: 09/18/2008)
09/19/2008	<u>25</u>		ENDORSED ORDER granting <u>24</u> Motion for Extension of Time to Respond to Motion to Dismiss. Plaintiff's response due 15 days after Court rules on Motion to Remand. Signed by Judge Kenneth A. Marra on 9/19/08. (ir) (Entered: 09/19/2008)
10/03/2008	<u>26</u>	<input type="checkbox"/>	OPINION AND ORDER granting <u>11</u> Motion to Remand. All pending

		93.9 KB	motions are denied, without prejudice, as moot. This case is CLOSED. Signed by Judge Kenneth A. Marra on 10/3/08. (ir) Modified on 10/3/2008 (ir). (Entered: 10/03/2008)
10/06/2008	27	37.2 KB	Transmittal Letter Sent With certified copy of Order of Remand To: 15th Judicial Circuit in and for Palm Beach County, Florida (bb) (Entered: 10/06/2008)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80804-CIV-MARRA/JOHNSON

JANE DOE, a/k/a
JANE DOE NO. 1,

Plaintiff,

█

JEFFREY EPSTEIN,
█, and
█

Defendants.

OPINION AND ORDER REMANDING CASE TO STATE COURT

THIS CAUSE is before the Court on Plaintiff's Motion to Remand (DE 11), filed August 18, 2008. Defendants filed a response (DE 21), and Plaintiff subsequently replied (DE 22). The motion is now fully briefed and is ripe for review. The Court has carefully reviewed all of the briefs and the entire record and is otherwise advised in the premises.

Background

Plaintiff Jane Doe, a/k/a Jane Doe No. 1, filed a four-count complaint in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, on June 25, 2008, bringing actions for sexual assault against Defendant Jeffrey Epstein ("Epstein"), and civil conspiracy, intentional infliction of emotional distress, and civil remedy for violation of Florida Statute Section 772.103 against all three Defendants (DE 1). The facts, as alleged in the Complaint, are as follows: At all relevant times, Epstein was an adult male. (Am. Compl. ¶ 8).

Epstein engaged in a plan, scheme and/or enterprise in which he gained access to primarily economically disadvantaged minor girls in his home, sexually assaulted these girls or coerced or attempted to coerce them to engage in prostitution, and then gave them money. (Am. Compl. ¶ 9). In or about 2005, Plaintiff, then 14 years old, became a victim of this scheme. (Am. Compl. ¶ 9). Defendants [REDACTED] (“[REDACTED]”) and [REDACTED] (“[REDACTED]”) recruited girls ostensibly to give a wealthy man a massage for monetary compensation in his Palm Beach mansion. (Am. Compl. ¶11). Under the plan, [REDACTED] was contacted shortly before or soon after Epstein was at his Palm Beach residence. Epstein, [REDACTED] or someone on their behalf, directed [REDACTED] to bring one or more underage girls to the residence. (Am. Compl. ¶11). [REDACTED] generally sought out economically disadvantaged underage girls from Loxahatchee and surrounding areas. (Am. Compl. ¶ 11).

Upon arrival at Epstein’s mansion, [REDACTED] would introduce each victim to [REDACTED], who gathered the girl’s personal information. (Am. Compl. ¶ 12). Defendant [REDACTED] would then bring the girl up a flight of stairs to a bedroom that contained a massage table. (Am. Compl. ¶ 12). [REDACTED] would then leave the girl alone in the room, whereupon Epstein would enter wearing only a towel. (Am. Compl. ¶ 12). Epstein would then remove his towel, lay down naked on the massage table, and direct the girl to remove her clothes. (Am. Compl. ¶ 12). Epstein would then perform one or more lewd, lascivious and sexual acts, [REDACTED]
[REDACTED]
[REDACTED] (Am. Compl. ¶ 12).

Consistent with the foregoing plan, [REDACTED] recruited Plaintiff to give Epstein a massage for monetary compensation. (Am. Compl. ¶ 13). [REDACTED] brought Plaintiff to Epstein’s mansion

in Palm Beach. (Am. Compl. ¶ 13). Plaintiff was introduced to [REDACTED], who led her up the stairs to the room with the massage table. (Am. Compl. ¶ 13). [REDACTED] set up the massage table, laid out the massage oils, told Plaintiff that Epstein would be in shortly, and then left the room. (Am. Compl. ¶ 13). Plaintiff was alone in the room when Epstein arrived. (Am. Compl. ¶ 13). Epstein told her to remove her clothes and left the room. (Am. Compl. ¶ 13). Epstein returned wearing only a towel. (Am. Compl. ¶ 13). Epstein removed his towel and laid down on his stomach on the massage table. (Am. Compl. ¶ 13). Epstein again told Plaintiff to remove her clothes. (Am. Compl. ¶ 13). In shock, fear and trepidation, Plaintiff complied, removing her clothes except for her panties and bra. (Am. Compl. ¶ 13). Shortly after starting to rub Epstein's back, Epstein told Plaintiff to sit on his back. (Am. Compl. ¶ 13). Plaintiff, out of fear and trepidation, complied. (Am. Compl. ¶ 13). After a period of time, Epstein got up from the table and went behind the door. (Am. Compl. ¶ 13). For several minutes Plaintiff heard loud noises and moans and believes that Epstein was [REDACTED] (Am. Compl. ¶ 13). Thereafter, Epstein, naked, returned to the massage table and laid face up on the table. (Am. Compl. ¶ 13). Epstein then told Plaintiff to continue with the massage and told her to sit on top of him. (Am. Compl. ¶ 13). Out of fear and trepidation she complied. (Am. Compl. ¶ 13). As Plaintiff rubbed Epstein's chest, Epstein began to [REDACTED] (Am. Compl. ¶ 13). Thereafter Epstein began to [REDACTED] (Am. Compl. ¶ 13). At this same time, Epstein was [REDACTED]. (Am. Compl. ¶ 13). [REDACTED], Epstein got up from the massage table, told Plaintiff to write down her name and phone number, and then left the room. (Am. Compl. ¶ 13).

Plaintiff was then able to get dressed, leave the room and go back downstairs and into the

kitchen. (Am. Compl. ¶ 14). Epstein, [REDACTED], and [REDACTED] were waiting for Plaintiff. (Am. Compl. ¶ 14). Epstein paid Plaintiff \$300. (Am. Compl. ¶ 14). Epstein paid [REDACTED] \$200 for bringing Plaintiff to him. (Am. Compl. ¶ 14). [REDACTED] took Plaintiff home. (Am. Compl. ¶ 14). As a result of this encounter, the 14-year-old Plaintiff experienced confusion, shame, humiliation, and embarrassment, and the assault sent her life into a downward spiral. (Am. Compl. ¶ 15).

Defendants filed a Notice of Removal with this Court on July 18, 2008. (DE 1). Defendants assert that this Court has jurisdiction pursuant to 28 U.S.C. § 1332: the amount in controversy exceeds \$75,000; Defendant Epstein is a citizen of the U.S. Virgin Islands; and Defendant [REDACTED] is a citizen of New York. (Notice of Removal ¶ 2.) As Plaintiff is a citizen of Florida, complete diversity exists and this Court's jurisdiction is alleged to be proper. As for [REDACTED] [REDACTED], Defendants claim that [REDACTED] was fraudulently joined to defeat diversity jurisdiction. (Notice of Removal. ¶ 3). Plaintiffs have moved to remand the action, claiming that [REDACTED] was not fraudulently joined to the action. As such, Plaintiff asserts that complete diversity does not exist, and this Court does not have jurisdiction over this case.

Standard of Review

A defendant may remove any civil action brought in a state court over which a federal court would also have original jurisdiction. 28 U.S.C. § 1441(a). However, the burden of establishing federal jurisdiction under § 1441 rests with the party seeking removal. Carson, [REDACTED]. Dunham, 121 U.S. 421, 425 (1887); Diaz, [REDACTED]. Sheppard, 85 F.3d 1502, 1505 (11th Cir. 1996). The right of removal is strictly construed, as it is considered a federal infringement on a state's power to adjudicate disputes in its own courts. See Shamrock Oil & Gas Corp., [REDACTED]. Sheets, 313 U.S. 100,

108-09 (1941). Thus, when the Court's jurisdiction over a case is doubtful, doubts are resolved in favor of remand. See Crowe v. Coleman, 113 F.3d 1536, 1539 (11th Cir. 1997).

Discussion

Fraudulent Joinder

A defendant's statutory "right of removal cannot be defeated by a fraudulent joinder of a resident defendant having no real connection with the controversy." Wilson v. Republic Iron & Steel Co., 257 U.S. 92, 97 (1921). Thus, courts have established the doctrine of fraudulent joinder to allow the removal of a case to federal court despite the presence of a non-diverse or forum-citizen defendant. The Eleventh Circuit has provided substantial guidance for the district courts in situations where a party removes a case from state court, alleging fraudulent joinder of the non-diverse parties:

In a removal case alleging fraudulent joinder, the removing party has the burden of proving that either: (1) there is no possibility the plaintiff can establish a cause of action against the resident defendant; or (2) the plaintiff has fraudulently pled jurisdictional facts to bring the resident defendant into state court. The burden of the removing party is a "heavy one."

To determine whether the case should be remanded, the district court must evaluate the factual allegations in the light most favorable to the plaintiff and must resolve any uncertainties about state substantive law in favor of the plaintiff.

Crowe, 113 F.3d at 1538. In this case, Defendants do not allege that Plaintiff fraudulently pled jurisdictional facts; instead, Defendants argue that Plaintiff has no cause of action against

██████████.

The Amended Complaint alleges three causes of action against ██████████: civil conspiracy (Count 2); intentional infliction of emotional distress (Count 3); and civil remedy for violation of

Florida Statute Section 772.103 (Count 4). The Court, in considering the remand motion, must not weigh the merits of a Plaintiff's claim beyond determining whether any of the alleged causes of action is an arguable one under state law. See Crowe, 113 F.3d at 1538. "If there is even a possibility that a state court would find that the complaint states a cause of action against any one of the resident defendants, the federal court must find that joinder was proper and remand the case to state court." Id., quoting Coker v. Amoco Oil Co., 709 F.2d 1433, 1440-41 (11th Cir.1983).

The Florida Fifth District Court of Appeals set forth the elements of a civil conspiracy as follows: "The elements of a civil conspiracy are: (a) a conspiracy between two or more parties, (b) to do an unlawful act or to do a lawful act by unlawful means, (c) the doing of some overt act in pursuance of the conspiracy, and (d) damage to plaintiff as a result of the acts performed pursuant to the conspiracy." Walters v. Blankenship, 931 So.2d 137, 140 (Fla. 5DCA 2006), citing Florida Fern Growers Ass'n, Inc. v. Concerned Citizens of Putnam County, 616 So.2d 562 (Fla. 5th DCA 1993). Here, Plaintiff has alleged each of the required elements in her Amended Complaint as follows: (a) a conspiracy between the three Defendants, including [REDACTED] (Am. Compl. ¶ 21); (b) to do an unlawful act, that is, to commit the tort of sexual assault of a minor (Am. Compl. ¶ 21); (c) [REDACTED] committed an overt act in pursuance of the conspiracy, that is, [REDACTED] used false pretenses to lure Plaintiff to Epstein's home so that Epstein could sexually assault Plaintiff (Am. Compl. ¶ 22); and (d) severe and permanent traumatic injuries, including mental, psychological and emotional damages (Am. Compl. ¶ 23).

"Additionally, an actionable conspiracy requires an actionable underlying tort or wrong." Raimi v. Furlong, 702 So.2d 1273, 1284 (3d DCA 1997); see, e.g., Walters, 931 So.2d at 141.

The gist of a civil action for conspiracy is not the conspiracy itself, but the civil wrong which is done pursuant to the conspiracy and which results in damage to the plaintiff (citations omitted) Thus, a cause of action for civil conspiracy exists ... only if “the basis for the conspiracy is an independent wrong or tort which would constitute a cause of action if the wrong were done by one person.”

Rivers v. Dillard's Dept. Store, Inc., 698 So.2d 1328 (Fla. 1 DCA 1997), *quoting* Blatt v. Green, Rose, Kahn & Piotrkowski, 456 So.2d 949 (Fla. 3d DCA 1984). The alleged underlying wrong or tort in this case is sexual assault of a 14-year-old minor. Sexual assault is considered tortious conduct under Florida law. Malicki v. Doe, 814 So.2d 347, 358 (Fla. 2002); *see also* Doe v. Celebrity Cruises, Inc., 394 F.3d 891, 917 (11th Cir. 2004) (“Florida law equates sexual battery with an intentional tort.”). At the very least, Plaintiff’s Complaint states a cause of action for the underlying tort of battery, as a 14-year-old child cannot consent to the alleged vaginal penetration by Epstein. Fla. Stat. § 800.04.

Based on the foregoing, the Court cannot say with certainty that “no possibility” exists that Plaintiff can establish a cause of action against the resident [REDACTED] in state court. *See Crowe*, 113 F.3d at 1538. As such, the Court concludes that Defendants have not met their “heavy” burden of demonstrating that joinder of the claims against [REDACTED] was fraudulent, justifying denial of the motion to remand. *Id.*

Conclusion

Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

1. Plaintiff’s Motion to Remand [DE 11] is **GRANTED**.
2. This case shall be **REMANDED** to the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, case No. 50 2008 CA 006596, for lack of subject matter

jurisdiction;

3. The Clerk of this Court is hereby directed to forward a certified copy of this Order to the Clerk of the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, case No. 50 2008 CA 006596;

4. All pending motions are hereby **DENIED**, without prejudice, as moot; and

5. **This case is closed.**

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 3rd day of October, 2008.



KENNETH A. MARRA
United States District Judge

Copies furnished to:
All counsel of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80804-CIV-MARRA/JOHNSON

JANE DOE, a/k/a,
JANE DOE NO. 1,

Plaintiff,

vs.

JEFFREY EPSTEIN, [REDACTED]
[REDACTED], and [REDACTED]

Defendants.

PLAINTIFF'S REPLY TO OPPOSITION TO REMAND

Plaintiff Jane Doe, a Florida citizen, properly sued [REDACTED] [REDACTED], also a Florida citizen, in this action. Contrary to Defendants' contention, Defendant [REDACTED] was not fraudulently joined because, when viewing the factual allegations in the light most favorable to Plaintiff and resolving issues of Florida substantive law in favor of Plaintiff, it is clear that Plaintiff has cognizable causes of action against Defendant [REDACTED] for civil conspiracy, intentional infliction of emotional distress, and civil RICO. Accordingly, the Court should remand this action to Florida state court.

A. Plaintiff is a Florida citizen

Plaintiff alleged in her complaint and testified in deposition that she is a Florida resident. (Amended Complaint ¶ 1, DE 1, pp. 301; Deposition of Jane Doe, DE 1, pp. 31-32, 5:14-18, 6:6-10). In their notice of removal, Defendants cite a newspaper article (from the same newspaper that Defendants chide Plaintiff for citing with regard to Defendant [REDACTED] describing herself as the Hollywood madam Heidi Fleiss) in which it

is reported that Plaintiff had moved to another state in order to intimate that Plaintiff made fraudulent allegations regarding her residency. (DE 1, p. 7 n.6). Defendants then chide Plaintiff in their opposition to her motion for remand for not taking the bait and responding to this baseless allegation. (DE 21, p. 1). The only evidence in this case, as well as Plaintiff's allegations, demonstrate that Plaintiff is a Florida citizen. As Defendants have failed to present sufficient evidence to demonstrate otherwise, there is no need for Plaintiff to present additional evidence establishing her status as a Florida citizen.

B. Plaintiff has alleged cognizable causes of action against Defendant [REDACTED]

The allegations in Plaintiff's complaint demonstrate that Plaintiff was the victim in a despicable scheme orchestrated by Defendant Epstein to find and obtain underage girls, lure them to his home, and subject them to sexual abuse or otherwise induce them to engage in lewd behavior. As much as Defendants attempt to downplay the role of Defendant [REDACTED] by describing her as nothing but a college student with no assets, Plaintiff's complaint demonstrates that [REDACTED] was a key player in Epstein's scheme. Defendant [REDACTED] was the person that actually trolled for underage girls and induced them with promises of money in exchange for massages in order to deliver the girls to Epstein's home and get them into his bedroom. (Amended Complaint ¶¶ 11-15, DE 1, pp. 302-04). Without Defendant [REDACTED] role in this scheme, the underage girls, including Plaintiff, would not have been subjected to Defendant Epstein's depravity and abuse.

1. Civil Conspiracy

Defendants repeatedly assert that Plaintiff cannot have a cause of action for civil conspiracy grounded on the tort of sexual assault because Chapter 800 of the Florida Statutes does not create a private cause of action. As authority for this legal proposition, Defendants cite Florida case law that states “not every statutory violation carries a civil remedy.” (DE 21, p. 6) (citing *Am. Home Assurance Co. v. Plaza Materials Corp.*, 908 So. 2d 360, 374 (Fla. 2005)). Defendants do not cite case law that states, however, that Chapter 800 of the Florida Statutes does not create a private cause of action, nor can they because this appears to be a matter of first impression in Florida.

In order to determine whether a private cause of action may be based upon a statutory breach, Florida courts look to the intent of the legislature. *Baumstein v. Sunrise Community, Inc.*, 738 So. 2d 420, 421 (Fla. 3d DCA 1999). Because Florida courts have not examined whether the legislature intended for violations of Chapter 800 to provide for private causes of action, the Court should view this uncertainty regarding Florida state law in favor of Plaintiff. *See Crowe v. Coleman*, 113 F.3d 1536, 1538 (11th Cir. 1999) (citation omitted).

Furthermore, the failure of a statute to provide a private cause of action does not “preclude the right to bring a common law . . . claim based upon the same allegations.” *Villazon v. Prudential Health Care Plan, Inc.*, 843 So. 2d 842, 852 (Fla. 2003). In her action for sexual assault, Plaintiff alleges that Defendant Epstein tortiously assaulted her sexually. (DE 1, p. 104). Under Florida law, sexual assault is an intentional tort. *See Doe v. Celebrity Cruises, Inc.*, 394 F.3d 891, 917 (11th Cir. 2004) (“Florida law equates sexual battery with an intentional tort.”). Thus, even if Plaintiff’s civil conspiracy claim

cannot properly be grounded upon a violation of Chapter 800, it is properly grounded upon common law tortious assault. Plaintiff's cause of action for civil conspiracy is, therefore, cognizable against Defendant [REDACTED] under Florida law.

2. Intentional Infliction of Emotional Distress

Defendants next assert that Plaintiff has failed to assert a cognizable cause of action for intentional infliction of emotional distress against Defendant [REDACTED] because her allegations are not so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency. (DE 21, p. 7). They attempt to characterize Plaintiff as the wrongdoer because she agreed to give a massage in exchange for monetary compensation when she was "unlicensed, untrained, and unqualified to perform this professional service." (DE 21, p. 8).

Defendants seem to forget that Plaintiff was just a 14-year old girl when she was approached by Defendant [REDACTED] and induced to agree to provide a massage to a wealthy man in exchange for money. What Plaintiff certainly did not agree to do was to be subjected to Defendant Epstein's perverse scheme to satisfy his depraved sexual desires. When read fairly, Plaintiff's complaint tells the tale of a girl, barely a teenager, who was lied to and manipulated by the college-aged Defendant [REDACTED] who, for compensation, tempted Plaintiff with the promise of money in exchange for easy and harmless work and then knowingly delivered Plaintiff into the depraved hands of Defendant Epstein. Defendant Epstein then subjected this young girl to the despicable lewd and lascivious acts detailed in Plaintiff's complaint. It is hard to imagine any conduct that is more "outrageous in character and so extreme in degree as to go beyond all possible bounds of

decency.” Plaintiff’s cause of action for intentional infliction of emotional distress must, therefore, be recognized as cognizable under Florida law.

3. Civil RICO

Finally, Defendants argue that Plaintiff has failed to assert a cognizable cause of action for civil RICO against Defendant [REDACTED] because Plaintiff was injured only by the sexual assault, which is not a predicate act under Florida’s RICO statute. In her complaint, Plaintiff alleges that Defendants engaged in a pattern of criminal activity in which Defendant [REDACTED] found and delivered underage girls to Defendant Epstein in order for Epstein to “solicit, induce, coerce, entice, compel or force such girls to engage in acts of prostitution and/or lewdness.” (Amended Complaint ¶ 32, DE 1, p. 307). She also alleges that she was a victim of Defendants’ scheme because she was one of the underage girls found and delivered to Defendant Epstein by Defendant [REDACTED] and that she endured Epstein’s actions as he tried to get her to engage in, and forced upon her, acts of prostitution and lewdness. (Amended Complaint ¶ 33, DE 1, pp. 307-308). It is for harm suffered as a result of these predicate acts that Plaintiff seeks damages for in Count IV of her complaint. *Cf. Palmas Y Bambu, S.A. v. E.I. Dupont De Nemours & Co., Inc.*, 881 So. 2d 565, 570 (Fla. 3d DCA 2004) (holding plaintiff has standing to sue for civil RICO when her injuries flow directly from commission of the predicate acts, which means “when the alleged predicate act is mail or wire fraud, the plaintiff must have been a target of the scheme to defraud and must have relied to his detriment on misrepresentations made in furtherance of that scheme”). Because Plaintiff was a target of Defendants’ scheme and was harmed by their actions in carrying out the scheme, Plaintiff has a cognizable cause of action for civil RICO against Defendant [REDACTED].

C. Conclusion

Plaintiff, a Florida citizen, has alleged cognizable causes of action against Defendant [REDACTED], also a Florida citizen, for civil conspiracy, intentional infliction of emotional distress, and civil RICO. When viewing Plaintiff's factual allegations in the light most favorable to her and resolving issues of Florida substantive law in her favor, it is clear that Plaintiff has not fraudulently joined Defendant [REDACTED] in this action. Accordingly, the Court should remand this action to Florida state court for lack of jurisdiction.

Certificate of Services

I hereby certify that on September 15, 2008, 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 counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80804-CIV-MARRA/JOHNSON

JANE DOE, a/k/a
JANE DOE NO. 1,

vs.

JEFFREY EPSTEIN,
[REDACTED], and
[REDACTED]

OPPOSITION TO REMAND MOTION

Because this case was properly removed under 28 U.S.C. § 1441(a), remand is unwarranted. In response to plaintiff's motion under § 1447(c) for remand and attorneys' fees, defendants Jeffrey Epstein and [REDACTED] respectfully state as follows:

Introduction

The plaintiff suggests she is insulated from any fraudulent-joinder challenge so long as she has "at least a possibility" of "recover[ing] against Defendant [REDACTED] under Florida law for each of the counts in the amended complaint." (DE 11 at 5.) However superficially appealing from a plaintiff's perspective, this argument ignores the corollary that "[t]he potential for legal liability [under State law] 'must be reasonable, not merely theoretical.'" *Legg v. Wyeth*, 428 F.3d 1317, 1325 n.5 (11th Cir. 2005) (quoting *Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 312 (5th Cir. 2002)) (emphasis added). See also *id.* at 1325 (observing that "[t]he removal process was created by Congress to protect defendants," adding that "Congress 'did not extend such protection with one hand, and with the other give plaintiffs a

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bag of tricks to overcome it.” (quoting *McKinney*, Bd. of Trustees of Maryland Cmty. Coll., 955 F.2d 924, 928 (4th Cir. 1992))).

Essentially, the remand motion merely re-states the complaint’s allegations against [REDACTED]. This is not enough to rebut fraudulent joinder. Cf. *Ghiglione*, Discover Prop. & Cas. Co., No. C-06-1276 SC, 2006 WL 1095855, at *2 (N.D. Cal. Apr. 25, 2006) (denying motion to remand where plaintiffs, instead of properly analyzing their alleged cause of action, resorted to “quoting from *Witkin’s California Procedure* a passage *that merely repeated* the essence of [the governing jurisdictional statute]”) (emphasis added).

Even in the light most favorable to the plaintiff, the allegations are insufficient to establish a cause of action under Florida law against [REDACTED] [REDACTED]. As a result, after discounting this fraudulently joined defendant, there is complete diversity of citizenship, hence, original jurisdiction in this Court.

Discussion

A. Diversity of Citizenship

Based on a published newspaper report, our removal petition suggested that Jane Doe, despite her allegations of being a citizen of Florida (DE 1 at 62), might actually be a (diverse) citizen of Georgia (DE 1 at 7–8 n.6). If so, the case would be removable, regardless of any claims against defendant [REDACTED]. The plaintiff ignored this point. Instead, the plaintiff claimed that “there is a question of whether Defendant Epstein is actually a citizen of Florida because he is now incarcerated in a Florida jail.” (DE 11 at 2 n.2.) This statement, besides being nonresponsive,¹ is devoid of merit under binding Eleventh Circuit law, which the plaintiff did not

¹ Plaintiff seized upon this non sequitur as an opportunity to attach the “Epstein Sentence” (DE 11 at 2 n.2), an unmarked composite exhibit comprising, among other things, the terms,

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cite. See *Mitchell*, *Brown & Williamson Tobacco Corp.*, 294 F.3d 1309, 1314 (11th Cir. 2002) (noting as an undisputed point that someone retains their *pre-incarceration domicile* for purposes of citizenship under 28 U.S.C. § 1332(a)) (citations omitted); see also *Polakoff*, *Henderson*, 370 F. Supp. 690, 693 (N.D. Ga. 1973), *aff'd*, 488 F.2d 977, 978 (5th Cir. 1974) (“*A prisoner does not acquire a new domicile in the place of his imprisonment, but retains the domicile he had prior to incarceration.*”) (citation omitted) (emphasis added), *cited with approval in Mitchell*, 294 F.3d at 1314.

conditions, and sensitive protocols concerning the fact of Epstein’s *previously disclosed* incarceration. See DE 24 in *Jane Doe No. 2*, *Epstein*, Case No. 9:08-CV-80119-KAM (S.D. Fla. filed Feb. 6, 2008) (disclosing fact of Epstein’s criminal sentence and incarceration); DE 19 in *Jane Doe No. 3*, *Epstein*, No. 08-CV-80232-KAM (S.D. Fla. filed Mar. 5, 2008) (same); DE 30 in *Jane Doe No. 4*, *Epstein*, No. 08-CV-80380-KAM (S.D. Fla. filed Apr. 14, 2008) (same); DE 28 in *Jane Doe No. 5*, *Epstein*, No. 08-80381-CV-KAM (S.D. Fla. filed Apr. 14, 2008) (same). Being entirely irrelevant to this proceeding, the above exhibit serves only to complement the improper *extrajudicial* Internet postings by plaintiff’s counsel. Compare Ricci-Leopold Home Page, <http://www.riccilaw.com> (click on “Breaking News,” then access the hyperlink entitled, *03/13/08 – Consumer Justice Attorney Ted Leopold Files Case to aid Jane Doe in seeking justice against sexual predator Jeffrey Epstein and his associates*) (characterizing Epstein as a “sexual predator,” then using terms like “*vilest*” and “*lurid*” to describe Epstein’s alleged conduct (quoting “Ted Leopold, managing partner of the Palm Beach Gardens law firm of Ricci-Leopold”)) (emphasis added) (web site last visited Sept. 3, 2008), with S.D. Fla. Local Rule 77.2(7) (providing that “[a] lawyer or law firm associated with a civil action *shall not during its investigation or litigation make or participate in making an extrajudicial statement*, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates (a) [e]vidence regarding the occurrence or transaction involved[;] (b) [t]he character . . . of a party . . . [; or] (d) [t]he lawyer’s opinion as to the merits of the claims . . .”) (emphasis added).

B. Fraudulent Joinder

Even if the plaintiff is a citizen of Florida (after all), there is still complete diversity given that “[a] non-diverse defendant who is fraudulently joined does not defeat diversity.” *Shenkar v. Money Warehouse, Inc.*, No. 07-20634-CIV, 2007 WL 3023531, at *1 (S.D. Fla. Oct. 15, 2007) (Moreno, J.) (citing *Riley v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 292 F.3d 1334, 1337 (11th Cir. 2002)); accord, e.g., *Tedder v. F.M.C. Corp.*, 590 F.2d 115, 117 (5th Cir. 1979) (denying motion to remand where two resident defendants were joined for the fraudulent purpose of defeating federal jurisdiction).² To say it another way, there is no cause of action here against [REDACTED] [REDACTED], and without [REDACTED] [REDACTED], there is complete diversity.

This plaintiff originally filed this lawsuit in this court. See *Doe v. Epstein*, No. 08-CV-80069-KAM (S.D. Fla. filed Jan. 24, 2008). After she was deposed in the state criminal case,³ she dismissed this suit, switched lawyers, and re-filed her claims in state court (DE 1-2 at 62-70), adding [REDACTED] [REDACTED] as a nondiverse defendant in an attempt to prevent removal (DE 1-2 at 62).⁴ After Ms. [REDACTED] moved to quash service of process in state court (DE 1-2 at 92-96), the

² In *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc), the Eleventh Circuit Court of Appeals adopted as binding precedent all decisions of the former Fifth Circuit rendered prior to October 1, 1981.

³ On February 20, 2008, the plaintiff was deposed in *State of Florida v. Jeffrey Epstein*, 502006CF009454 (Fla. 15th Cir. Ct. filed July 19, 2006). During that deposition, she made numerous admissions that completely undermined the allegations in her complaint. Two days later, she filed a notice of voluntary dismissal without prejudice. See *Doe v. Epstein*, Case No. 08-CV-80069-KAM, DE 9.

⁴ The plaintiff, apparently to bolster her untenable theories of indirect tort liability, added another new defendant, [REDACTED] (DE 1-2 at 62.) In naming [REDACTED] and [REDACTED] as defendants, the plaintiff tried to distinguish this case from a series of effectively identical lawsuits brought in federal court against Epstein: *Jane Doe No. 2 v. Epstein*, Case No. 9:08-CV-80119-KAM (S.D. Fla. filed Feb. 6, 2008); *Jane Doe No. 3 v. Epstein*, No. 08-CV-80232-KAM (S.D. Fla. filed Mar. 5, 2008); *Jane Doe No. 4 v. Epstein*, No. 08-CV-80380-KAM (S.D.

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plaintiff then amended her complaint to assert *an additional claim against* [REDACTED] (DE 1-3 at 101-09), re-using the identical, unmodified general allegations.

Instead of addressing the fact that [REDACTED] has “no assets whatever” (DE 1 at 4) and looks every bit the sham defendant, the plaintiff maintains that [REDACTED], a college student, was a “key player” in an alleged RICO “scheme” (DE 11 at 2). Resorting to unsworn, inadmissible, improper double-hearsay, the plaintiff proclaims that [REDACTED] “has described herself as Heidi Fleiss” (DE 11 at 1), the “notorious Hollywood madam” (DE 11 at 1 n.1) – as though sensationalism could convert Ms. [REDACTED] into an actual defendant. This “argument” has nothing to do with the issue of removal, offers incompetent non-evidence in an attempt to prejudice the analysis, and fails to establish that the amended complaint contains a single viable cause of action against [REDACTED].

1. The plaintiff has not asserted a cause of action against [REDACTED] for civil conspiracy.

The plaintiff, citing to *Wright v. Yurko*, 446 So. 2d 1162, 1165 (Fla. 5th DCA 1984), concedes that “there must [sic] be an ‘actionable underlying tort or wrong’ for an actionable conspiracy claim.” (DE 11 at 5.) Yet, the plaintiff still insists that Epstein’s “violation of Chapter 800 of the Florida Statutes” (DE 1-3 at 105) is an adequate the basis for her civil conspiracy claim against [REDACTED] (DE 1-3 at 105-06), “regardless of whether Defendant Epstein’s violation of Chapter 800 of the Florida Statutes also creates a private right of action” (DE 11 at 6). This makes no sense.

As we argued in the removal petition, it is not enough to allege that [REDACTED] “merely . . . ‘conspired to cause harm’”; again, “[u]nder Florida law, ‘[a]n actionable conspiracy requires an

Fla. filed Apr. 14, 2008); *Jane Doe No. 5 v. Epstein*, No. 08-80381-CV-KAM (S.D. Fla. filed Apr. 14, 2008).

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actionable underlying tort or wrong.” *Posner* ■. *Essex Ins. Co.*, 178 F.3d 1209, 1217–18 (11th Cir. 1999) (quoting *Florida Fern Growers Ass’n* ■. *Concerned Citizens*, 616 So. 2d 562, 565 (Fla. 5th DCA 1993)). In an effort to dodge this requirement, the plaintiff cites *Doe* ■. *Celebrity Cruises, Inc.*, 394 F.3d 891, 917 (11th Cir. 2004), an admiralty case that has *nothing to do with Chapter 800*, let alone the basic premise (left unaddressed by the plaintiff) that “not every statutory violation carries a civil remedy.” *Am. Home Assurance Co.* ■. *Plaza Materials Corp.*, 908 So. 2d 360, 374 (Fla. 2005) (citing *Villazon* ■. *Prudential Health Care Plan, Inc.*, 843 So. 2d 842, 852 (Fla. 2003)).

In *Celebrity Cruises*, the Eleventh Circuit distinguished “sexual battery” from “sexual assault” under Florida law. *Celebrity Cruises*, 394 F.3d at 916–17. The court also cited with approval the dissenting opinion in *Doe* ■. *Evans*, 814 So. 2d 370, 380 (Fla. 2002) (Wells, C.J., dissenting), where Florida Chief Justice Wells admonished against “the use of broad, indefinite, and legally nonspecific language” to establish causes of action under a rubric as expansive as “sexual misconduct.” *Evans*, 814 So. 2d at 379–81 (Wells, C.J., dissenting). *See also id.* at 379 (Wells, C.J., dissenting) (noting that “sexual misconduct” is a phrase of inherent vagueness and has no meaning in Florida tort law,” adding that “[t]orts have *defined elements*”) (emphasis added). Accordingly, this case serves only to highlight that Florida has never relaxed its pleading requirements simply because a plaintiff describes an event as a “sexual assault.” To plead a legal cause of action, the plaintiff still must allege a real, recognized tort.

In trying to obfuscate the basis for her civil-conspiracy claim, the plaintiff *has only confirmed that she is relying on Chapter 800*, a statute that does not afford a private right of action. Because the statute she expressly pleads provides no civil remedy, the plaintiff cannot prevail on her derivative claim for civil conspiracy.

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2. The plaintiff has not asserted a cause of action against [REDACTED] for intentional infliction of emotional distress.

The plaintiff says she agreed to perform an illegal massage “to make some extra money” (DE 11 at 7), only to “suffer severe mental anguish and pain” (DE 1-3 at 106) when her illegal scheme met with an allegedly superseding illegal scheme. To establish a cause of action for intentional infliction of emotional distress, however, it is not sufficient to allege that “the defendant has acted with an intent which is tortious or even criminal, or that [the defendant] has intended to inflict emotional distress, or even that [the defendant’s] conduct has been characterized by ‘malice,’ or a degree of aggravation which would entitle the plaintiff to punitive damages for another tort.” *Metro. Life Ins. Co. v. McCarson*, 467 So. 2d 277, 278 (Fla. 1985) (quoting Restatement (Second) of Torts § 46 (1965)). Rather, “the conduct as a matter of law must be so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency.” *Southland Corp. v. Bartsch*, 522 So. 2d 1053, 1056 (Fla. 5th DCA 1988). Here, when it comes to [REDACTED], the amended complaint fails to meet these standards.⁵

Indeed, the plaintiff does not allege that [REDACTED] committed an assault; or that [REDACTED] acted forcibly; or that [REDACTED] acted coercively. Further, the plaintiff says she undressed, and presumably remained in Epstein’s home, out of “shock, fear, and trepidation” (DE 1-3 at 104), not because of anything allegedly done by [REDACTED]. These allegations, to the extent they have to do with [REDACTED], do not allege anything that [REDACTED] did that is “so extreme in degree as to go beyond all possible bounds of decency.” *Bartsch*, 522 So. 2d at 1056.

The standard for determining IIED “is a matter of law, not a question of fact.” *Ponton v. Scarfone*, 468 So. 2d 1009, 1011 (Fla. 2d DCA 1985) (citation omitted). Even when alleged

⁵ This Response, in focusing only on fraudulent joinder, does not address the plaintiff’s claims against the diverse defendants, Jeffrey Epstein and [REDACTED].

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conduct is “condemnable by civilized social standards,” it may still “not ascend, or perhaps descend, to a level permitting [a court] to say that the benchmarks enunciated [by the Florida Supreme Court] . . . have been met.” *Id.* Further, an IIED claim must be evaluated “*as objectively as is possible*” to determine whether the conduct “is ‘atrocious, and utterly intolerable in a civilized community.’” *Id.* (quoting *McCarson*, 467 So. 2d at 278) (emphasis added).

When it comes to [REDACTED], the plaintiff talks about being double-crossed. But in emphasizing her own response to [REDACTED] alleged deception (DE 1-3 at 104), and in explaining her decision to remain in the massage room (DE 1-3 at 103–04), the plaintiff ignores the basic principle that “the subjective response of the person who is the target of the actor’s conduct *does not control the question of whether the tort [of IIED] occurred.*” *Bartsch*, 522 So. 2d at 1056 (citing *Ponton*, 468 So. 2d at 1011) (emphasis added). Here, the plaintiff alleges, at most, that [REDACTED] coordinated an openly illegal transaction with her (DE 1-3 at 103), but that [REDACTED] did not tell her everything that might happen while she was engaged in her illegal activities. This theory of liability, even in a light most favorable to the plaintiff, is far too attenuated to support an IIED claim.

To start with, the plaintiff acknowledges that she intended “to give Epstein a massage for monetary compensation” (DE 1-3 at 103), even though she was unlicensed, untrained, and unqualified to perform this professional service; the plaintiff also acknowledges that she pretended to be 18 (DE 1 at 61). Apart from the fact that plaintiff’s conduct is flatly proscribed by Florida’s criminal code, *see* Fla. Stat. § 480.047, these allegations, when viewed “as objectively as is possible,” simply do not implicate [REDACTED], an alleged go-between for plaintiff’s own criminality, in something “‘atrocious, and utterly intolerable in a civilized community’” for

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purposes of establishing an IIED claim. *Ponton*, 468 So.2d at 1011 (quoting *McCarson*, 467 So. 2d at 278).

Even if the plaintiff was “shock[ed]” (DE 1-3 at 104) to learn that [REDACTED] had engineered some sort of misdirection, that is still not enough to support an IIED claim *against* [REDACTED]. Again, it is not “enough that the defendant has acted with an intent which is tortious or even criminal, or that [the defendant] has intended to inflict emotional distress, or even that [the defendant’s] conduct has been characterized by ‘malice,’ or a degree of aggravation which would entitle the plaintiff to punitive damages for another tort.” *McCarson*, 467 So. 2d at 278 (quoting Restatement (Second) of Torts § 46 (1965)).

Here, *the amended complaint does not allege that* [REDACTED] *knew an alleged assault would take place*; besides which, the plaintiff says she was assaulted by *someone else* (DE 1-3 at 104-05). See *Baker v. Fitzgerald*, 573 So. 2d 873, 873 (Fla. 3d DCA 1990) (per curiam) (“Appellant’s claim for intentional infliction of emotional distress fails because there was no showing of outrageous conduct *directed at the appellant herself.*”) (emphasis added). Further, there is nothing in the record to suggest that [REDACTED] knew the plaintiff would remove her clothing, or stay in the massage room, out of “shock, fear and trepidation” (DE 1-3 at 104), when the plaintiff was never coerced, by [REDACTED], to do anything. Cf. *Habelow v. Travelers Ins. Co.*, 389 So. 2d 218, 220 (Fla. 5th DCA 1980) (affirming dismissal of claim for intentional infliction of emotional distress where there were “no allegations . . . indicating that [the plaintiff] was particularly sensitive or susceptible to emotional distress, or that [the defendant] had any basis to know she was” (citing *Steiner & Munach, P. A. v. Williams*, 334 So. 2d 39 (Fla. 3d DCA 1976))).

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For these reasons, the plaintiff has not stated a cause of action against [REDACTED] for intentional infliction of emotional distress.

3. The plaintiff has not asserted a cause of action against [REDACTED] for civil RICO.

The plaintiff, again substituting superficially framed legal standards for actual analysis, says she “was directly harmed by the [defendants’] scheme.” (DE 11 at 9.) This bare assertion completely ignores the RICO discussion presented in the removal petition (DE 1 at 19–21), but more important, refuses to acknowledge that section 772.104 allows someone to bring a civil RICO claim *only if* “she has been injured *by reason of*” any RICO violation. § 772.104, Fla. Stat. (2007) (emphasis added).

Here, the plaintiff clearly alleges that she was injured as a result of “a sexual assault . . . in violation of Chapter 800 of the Florida Statutes” (DE 1-3 at 105), *a statute that has nothing to do with, and does not constitute a predicate act in furtherance of, Florida RICO.* Cf. § 772.104, Fla. Stat. (listing predicate acts for Florida RICO). The plaintiff hardly establishes a RICO claim merely by reciting that she “was a victim of Defendants’ scheme because she was one of the underage girls found and delivered to Defendant Epstein by Defendant [REDACTED] and that she endured Epstein’s actions as he tried to get her to engage in, and forced upon her, acts of prostitution and lewdness.” (DE 11 at 9.) Not just in this passage, but indeed throughout her entire amended complaint, the plaintiff uses the term “*scheme*” as though it were a password for gaining access to RICO standing. Cf. *Newton v. Tyson Foods, Inc.*, 207 F.3d 444, 447 (8th Cir. 2000) (observing in the context of indirect and attenuated RICO allegations that “[t]he mere recitation of the chain of causation alleged by the plaintiffs is perhaps the best explanation of why they do not have standing in this case”).

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In sum, the plaintiff *has said nothing to rebut* what remains obvious: that her entire lawsuit, including her RICO claim, rests on an alleged “sexual assault . . . in violation of Chapter 800 of the Florida Statutes.” (DE 1-3 at 105.) Thus, the plaintiff has failed to allege a cause of action against [REDACTED] [REDACTED]. See *Baisch v. Gallina*, 346 F.3d 366, 373 (2d Cir. 2003) (“[A] plaintiff does not have standing if [s]he suffered an injury that was indirectly (and hence not proximately) caused by the racketeering activity or RICO predicate acts, *even though the injury was proximately caused by some non-RICO violations committed by the defendants.*”) (emphasis added); *Hoatson v. New York Archdiocese*, No. 05 Civ. 10467, 2007 WL 431098, at *12 (S.D.N.Y. Feb. 8, 2007) (dismissing RICO claim with prejudice where amended complaint was “*wholly devoid of a single act which constitutes a racketeering activity,*” even though the plaintiff had “alleged a larger picture” involving, among other things, allegations of sexual abuse) (emphasis added).

By re-writing Florida’s RICO statute to encompass Chapter 800, the plaintiff once again seeks (hypothetical) damages against [REDACTED] [REDACTED] without any statutory basis. This tactic, besides being ineffectual to prevent removal, flouts the fact that “the RICO statute is complex, arcane, and difficult to plead.” *Id. Cf. id.* at **12–16 (imposing sanctions in response to baseless RICO claim brought against the backdrop of sexual-abuse allegations, observing that “[t]he immediate link between the filing of the complaint and the press conference [held by the plaintiff’s counsel] support[s] the inference that [there was an] intent[] . . . to injure [the defendants’ reputation by bringing a RICO claim]”).

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Although asserting a RICO claim may be part of the plaintiff's media strategy,⁶ it is without legal merit and cannot operate to prevent removal.

Conclusion

Based on the foregoing, and the plaintiff's failure to address, let alone rebut, the fraudulent-joinder arguments presented in the removal petition, neither remand nor attorneys' fees are warranted in this case.

Respectfully submitted,

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⁶ See Ricci~Leopold Home Page, [http:// www.riccilaw.com](http://www.riccilaw.com) (click on "Breaking News," then access the hyperlink entitled, 03/13/08 – Consumer Justice Attorney Ted Leopold Files Case to aid Jane Doe in seeking justice against sexual predator Jeffrey Epstein and his associates) (highlighting RICO count in first sentence of press release) (last visited on Sept. 3, 2008).

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

Undersigned counsel has conferred in good faith with counsel for the plaintiff, who opposes the relief requested in this motion.

Counsel for co-defendant [REDACTED] [REDACTED] agrees to the positions taken in this memorandum.

/s/ Michael R. Tein
Michael R. Tein

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 5, 2008, 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 counsel of record identified below by U.S. Mail.

/s/ Michael R. Tein
Michael R. Tein

SERVICE LIST

Theodore J. Leopold, Esq.
Ricci-Leopold, P.A.
2925 PGA Blvd., Suite 200
Palm Beach Gardens, FL 33410
Fax: [REDACTED]
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Bruce E. Reinhart, Esq. (U.S. Mail)
Bruce E. Reinhart, P.A.
250 South Australian Avenue
Suite 1400
West Palm Beach, Florida 33401
Fax: [REDACTED]
Counsel for Defendant [REDACTED]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80804-CIV-MARRA/JOHNSON

JANE DOE, a/k/a,
JANE DOE NO. 1,

Plaintiff,

vs.

JEFFREY EPSTEIN, [REDACTED]
[REDACTED], and [REDACTED]

Defendants.

MOTION TO REMAND

Plaintiff Jane Doe moves the Court to remand this action to state court for lack of subject matter jurisdiction and states as follows:

1. Although Plaintiff Jane Doe, a Florida citizen, sues [REDACTED] [REDACTED], also a Florida citizen, in this action, Defendants removed the case to federal court on July 21, 2008, citing diversity of citizenship as the basis for federal subject matter jurisdiction.
2. Defendants claim that [REDACTED] [REDACTED], who has described herself as Heidi Fleiss (the Hollywood madam),¹ has “nothing to do with the plaintiff’s case against Mr.

¹ See *New York Post*, Oct. 1, 2007 (reporting “Some of the girls, legal documents indicate, were recruited by [REDACTED] [REDACTED], now 21, who described herself as ‘like Heidi Fleiss,’ the notorious Hollywood madam.”); *Palm Beach Post*, Aug. 14, 2006 (reporting that Defendant “[REDACTED] told detectives, ‘I’m like a Heidi Fleiss.’”).

Epstein,” (Notice of Removal, DE 1, p. 3) and that Plaintiff fraudulently joined her in this action to prevent complete diversity.²

3. As demonstrated in Plaintiff’s amended complaint, however, Defendant [REDACTED] was a vital part of the scheme to lure underage girls, including Plaintiff, to Epstein’s home in order to subject them to sexual abuse and induce them to engage in lewd behavior. Defendant [REDACTED] was a key player in this scheme because she was paid by Epstein to recruit the underage girls and take them to Epstein’s Palm Beach mansion. (Amended Complaint ¶¶ 11-15, DE 1, pp. 302-04). Without Defendant [REDACTED], these girls, including Plaintiff, would not have been victimized.
4. Because the allegations in Plaintiff’s amended complaint support the causes of action against Defendant [REDACTED] for civil conspiracy, intentional infliction of emotional distress, and civil RICO, [REDACTED] is a proper defendant in this action.
5. As [REDACTED] is admittedly a citizen of Florida, (Affidavit of [REDACTED] [REDACTED], DE 1, pp. 230-31) as is Plaintiff Jane Doe,³ (Amended Complaint ¶ 1, DE 1, pp. 301; Deposition of Jane Doe, DE 1, pp. 31-32, 5:14-18, 6:6-10) federal diversity jurisdiction does not exist in this case. *See* 28 U.S.C. §1332(a)(1) (providing that

² Defendants also argue that Plaintiff named [REDACTED] as a defendant to prevent entry of a stay in this matter pursuant to 18 U.S.C. § 3509(k). The Court has since denied Defendants’ motion, holding a stay of this proceeding is not warranted under either the statute or the Court’s discretion. (Order Denying Motion to Stay, DE 7).

³ Although Jane Does testified in deposition that she is a citizen of Florida, Defendants question whether she might actually be a citizen of Georgia because her mother lives in Georgia. (Notice of Removal, DE 1, pp. 7-8, n.6). Defendants fail to point out, however, that there is a question of whether Defendant Epstein is actually a citizen of Florida because he is now incarcerated in a Florida jail under an eighteen month sentence, to be followed by twelve months of community control, during which Epstein agreed he will be residing in Palm Beach, Florida. (Epstein Sentence, attached).

district courts have original jurisdiction over cases in which the matter in controversy exceeds \$75,000 and is between "citizens of different States").

6. Defendants' removal of this action was, therefore, improper. Because the Court lacks diversity jurisdiction, or any other form of subject matter jurisdiction, over this matter, the Court must remand this action to Florida state court.

WHEREFORE, Plaintiff requests the Court remand this action to state court and requests Defendants be ordered under 28 U.S.C. §1447(c) to pay costs and attorney fees incurred as a result of the removal.

MEMORANDUM OF LEGAL AUTHORITY

"An action in state court may be removed to federal court when the federal courts have diversity or federal question jurisdiction. *See* 28 U.S.C. § 1441(a). When a defendant removes a case to federal court on diversity grounds, a court must remand the matter back to state court if any of the properly joined parties in interest are citizens of the state in which the suit was filed. *See Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 126 S.Ct. 606, 613, 163 L.Ed.2d 415 (2005) (citing 28 U.S.C. § 1441(b)). Such a remand is the necessary corollary of a federal district court's diversity jurisdiction, which requires complete diversity of citizenship." *Henderson v. Washington Nat. Ins. Co.*, 454 F.3d 1278, 1281 (11th Cir. 2006).

Federal Courts are obligated to construe removal statutes very strictly, and "all doubts about jurisdiction should be resolved in favor of remand to state court." *Univ. of South Alabama v. American Tobacco Co.*, 168 F.3d 405, 411 (11th Cir. 1999) (citing *Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1095 (11th Cir. 1994), and *Coker v. Amoco Oil*

Co., 709 F.2d 1433 (11th Cir. 1983)). “A presumption in favor of remand is necessary because if a federal court reaches the merits of a pending motion in a removed case where subject matter jurisdiction may be lacking it deprives a state court of its right under the Constitution to resolve controversies in its own courts.” *American Tobacco Co.*, 168 F.3d at 411.

Defendants have removed this action even though Plaintiff named [REDACTED], a citizen of Florida, as a defendant because they claim Plaintiff’s joinder of Defendant [REDACTED] was done fraudulently in order to avoid federal jurisdiction. “In a removal case alleging fraudulent joinder, the removing party has the burden of proving that either: (1) there is no possibility the plaintiff can establish a cause of action against the resident defendant; or (2) the plaintiff has fraudulently pled jurisdictional facts to bring the resident defendant into state court.” *Crowe v. Coleman*, 113 F.3d 1536, 1538 (11th Cir. 1989) (citing *Cabalmeta v. Standard Fruit Co.*, 883 F.2d 1553, 1561 (11th Cir. 1989)). “The burden of the removing party is a ‘heavy one.’” *Id.* (quoting *B., Inc. v. Miller Brewing Co.*, 663 F.2d 545, 549 (5th Cir. Unit A 1981)).

“To determine whether the case should be remanded, the district court must evaluate the factual allegations in the light most favorable to the plaintiff and must resolve any uncertainties about state substantive law in favor of the plaintiff.” *Id.* (citing *B., Inc.*, 663 F.2d at 549). The Court may not “weigh the merits of a plaintiff’s claim beyond determining whether it is an arguable one under state law.” *Id.* “If there is even a possibility that a state court would find that the complaint states a cause of action against any one of the resident defendants, the federal court must find that joinder was proper and remand the case to state court.” *Id.* (quoting *Coker v. Amoco Oil Co.*, 709

F.2d 1433, 1440-41 (11th Cir. 1983)). This protects a plaintiff's right to select the forum of his lawsuit and the manner in which to prosecute the suit, and avoids exposing the plaintiff to the possibility of prosecuting the suit to conclusion only to learn the federal court lacked jurisdiction on removal. *Id.* (citing *Parks* ■, *The New York Times Co.*, 308 F.2d 474, 478 (5th Cir.1962); *Cowart Iron Works, Inc.* ■, *Phillips Constr. Co., Inc.*, 507 F.Supp. 740, 744 (S.D. Ga. 1981)).

Here, Defendants argue that removal is proper because Plaintiff cannot state a cause of action against Defendant ■ under Florida law. Viewing the allegations of the amended complaint in the light most favorable to Plaintiff, it is clear that there is at least *a possibility* that Plaintiff can recover against Defendant ■ under Florida law for each of the counts in the amended complaint—civil conspiracy, intentional infliction of emotional distress, and civil RICO. Joinder of Defendant ■ in this action was therefore proper, which requires remand of this action to Florida state court.

a. Plaintiff has a cognizable cause of action for civil conspiracy against Defendant ■.

“The elements of a civil conspiracy are: (a) a conspiracy between two or more parties, (b) to do an unlawful act or to do a lawful act by unlawful means, (c) the doing of some overt act in pursuance of the conspiracy, and (d) damage to plaintiff as a result of the acts performed pursuant to the conspiracy.” *Walters* ■, *Blankenship*, 931 So. 2d 137, 140 (Fla. 5th DCA 2006) (citing *Florida Fern Growers Ass'n, Inc.* ■, *Concerned Citizens of Putnam County*, 616 So. 2d 562 (Fla. 5th DCA 1993)). As Defendants point out, there must be an “actionable underlying tort or wrong” for an actionable conspiracy claim. *Wright* ■, *Yurko*, 446 So. 2d 1162, 1165 (Fla. 5th DCA 1984).

Plaintiff has grounded her conspiracy claim on the tort of sexual assault alleged in Count I of her amended complaint. In this count, Plaintiff alleges that Defendant Epstein *tortiously* assaulted her and states that the assault was committed in violation of Chapter 800 of the Florida Statutes. (Amended Complaint ¶¶ 17-18, DE 1, pp. 304-05). Under Florida law, sexual assault is an intentional tort. *See Doe v. Celebrity Cruises, Inc.*, 394 F.3d 891, 917 (11th Cir. 2004) (“Florida law equates sexual battery with an intentional tort.”). This is true regardless of whether Defendant Epstein’s violation of Chapter 800 of the Florida Statutes also creates a private right of action, which is a matter of first impression in Florida. Thus, Plaintiff has a cognizable cause of action for civil conspiracy against Defendant [REDACTED].

b. Plaintiff has a cognizable cause of action for intentional infliction of emotional distress against Defendant [REDACTED].

“The elements of the tort of intentional infliction of emotional distress are: (1) The wrongdoer’s conduct was intentional or reckless, that is, he intended his behavior when he knew or should have known that emotional distress would likely result; (2) the conduct was outrageous, that is, as to go beyond all bounds of decency, and to be regarded as odious and utterly intolerable in a civilized community; (3) the conduct caused emotion[al] distress; and (4) the emotional distress was severe.” *Gallogly v. Rodriguez*, 970 So. 2d 470, 471 (Fla. 2d DCA 2007) (citing *LeGrande v. Emmanuel*, 889 So. 2d 991, 994-95 (Fla. 3d DCA 2004)).

Here, Plaintiff has alleged that Defendant [REDACTED] used false pretenses to lure her (a 14-year old girl) to the mansion of Defendant Epstein and physically took her to Epstein so that he could subject her to sexual abuse and lewd behavior. Defendant

██████ recruited Plaintiff, as she had done numerous others, under the belief that Plaintiff was economically disadvantaged and would be unlikely to contact authorities after being sexually assaulted and abused by Defendant Epstein. Defendant ██████ was paid by Defendant Epstein only after the sexual assault and abuse were completed. And, Defendant ██████ knew that Plaintiff would be severely emotionally traumatized after the abuse. (Amended Complaint ¶¶ 9, 11, 15, 24-28, DE 1, pp. 302-03, 304, 306). These allegations are enough to demonstrate Plaintiff has a cognizable cause of action for intentional infliction of emotional distress against Defendant ██████ because they amount to conduct that would be viewed as outrageous by any reasonable person.

Defendants argue that Plaintiff is barred from recovering for intentional infliction of emotional distress under Florida law because she went to Defendant Epstein's home with the intent to give him a massage for monetary compensation when it is a crime (a misdemeanor), under section 480.047, Florida Statutes, to practice massage without a license. They claim Plaintiff cannot "recover damages flowing from her own illegal conduct." (Notice of Removal, DE 1, p. 16).

First, Plaintiff's damages do not flow from her conduct in giving Defendant Epstein a massage without a license. Defendants Epstein, ██████ and ██████ engaged in a scheme to lure underage girls to Epstein's mansion in order for Epstein to sexually abuse them. Plaintiff's damages resulting from Defendants making her a victim to their intentional, outrageous, and criminal conduct in no way flow from her decision as a 14-year old girl to make some extra money by giving a massage.

Furthermore, it is not a universal rule in Florida that any Plaintiff engaged in any criminal action, no matter how trivial, is barred from recovering damages suffered in

connection with that conduct. “The defense of *in pari delicto* is not woodenly applied in every case where illegality appears somewhere in the transaction; since the principle is founded on public policy, it may give way to a supervening public policy.” *Kulla* v. *E.F. Hutton & Co., Inc.*, 426 So. 2d 1055, 1057 n. 1 (Fla. 3d DCA 1983). “The fundamental purpose of the rule must always be kept in mind, and the realities of the situation must be considered. Where, by applying the rule, the public cannot be protected because the transaction has been completed, where no serious moral turpitude is involved, where the defendant is the one guilty of the greatest moral fault, and where to apply the rule will be to permit the defendant to be unjustly enriched at the expense of the plaintiff, the rule should not be applied.” *Id.* (quoting *Goldberg* v. *Sanglier*, 96 Wash.2d 874, 639 P.2d 1347, 1353-54 (1982)). The fact that Florida law gives the trial court the discretion to apply the doctrine of *in pari delicto*, considering that all ambiguities must be resolved in favor of Plaintiff, does not take away from the fact that Plaintiff has a cognizable cause of action for intentional infliction of emotional distress against Defendant [REDACTED].

c. Plaintiff has a cognizable cause of action for civil RICO against Defendant [REDACTED].

Finally, Defendants argue that Plaintiff does not have a cognizable cause of action for civil RICO under section 772.104, Florida Statutes, because she was not directly injured by the Defendants’ scheme. In Count IV of the amended complaint, Plaintiff alleges that Defendants engaged in a pattern of criminal activity in which Defendant [REDACTED] found and delivered underage girls to Defendant Epstein in order for Epstein to “solicit, induce, coerce, entice, compel or force such girls to engage in acts of prostitution and/or lewdness.” (Amended Complaint ¶ 32, DE 1, p. 307). She also alleges that she

was a victim of Defendants' scheme because she was one of the underage girls found and delivered to Defendant Epstein by Defendant [REDACTED] and that she endured Epstein's actions as he tried to get her to engage in, and forced upon her, acts of prostitution and lewdness. (Amended Complaint ¶ 33, DE 1, pp. 307-308). Plaintiff, who was a victim of Defendants' scheme, was directly harmed by the scheme and it is damages for this harm that she seeks in Count IV of the amended complaint. *Cf. Palmas Y Bambu, S.A. v. E.I. Dupont De Nemours & Co., Inc.*, 881 So. 2d 565, 570 (Fla. 3d DCA 2004) (holding plaintiff has standing to sue for civil RICO when her injuries flow directly from commission of the predicate acts, which means "when the alleged predicate act is mail or wire fraud, the plaintiff must have been a target of the scheme to defraud and must have relied to his detriment on misrepresentations made in furtherance of that scheme"). Because Plaintiff was a target of Defendants' scheme and was harmed by their actions in carrying out the scheme, Plaintiff has a cognizable cause of action for civil RICO against Defendant [REDACTED].

CONCLUSION

Plaintiff has cognizable causes of against Defendant [REDACTED], a Florida citizen, for civil conspiracy, intentional infliction of emotional distress, and civil RICO. Because Plaintiff has a *possibility* of recovering against Defendant [REDACTED] under her amended complaint, Defendants have failed to meet their burden of demonstrating that [REDACTED] was fraudulently joined in this action. As the parties lack complete diversity of citizenship, the Court lacks subject matter jurisdiction over this matter and should remand this case to Florida state court.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

On August 18, counsel for Plaintiff conferred with counsel for the Defendants in a good faith effort to resolve the issues raised in this motion, but was unable to do so.

s/ Spencer T. Kuvin
Spencer T. Kuvin (Florida Bar Number 089737)

Certificate of Services

I hereby certify that on August 18, 2008, 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 on August 18, 2008, on all counsel of record or pro se parties identified on the attached Service List in the manner specified, via transmission of Notices of Electronic Filing generated by CM/ECF.

s/ Spencer T. Kuvin
Spencer T. Kuvin (Florida Bar Number 089737)
Attorney E-Mail Address:
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2925 PGA Blvd.
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Telephone: [REDACTED]
Facsimile: [REDACTED]
Counsel for Plaintiff Jane Doe

SERVICE LIST

Doe ■. Epstein, et. al.

CASE NO: 08-80804-Civ-MARRA/JOHNSON

United States District Court, Southern District of Florida

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Email: [REDACTED]

Lewis Tein

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Coconut Grove, FL 33133

Phone: [REDACTED]

Fax: [REDACTED]

Counsel for Jeffrey Epstein

Served via CM/ECF

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Lewis Tein

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Coconut Grove, FL 33133

Phone: [REDACTED]

Fax: [REDACTED]

Counsel for Jeffrey Epstein

Served via CM/ECF

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

SENTENCE

(As to Count(s) 1)

Defendant Jeffrey E. Epstein

Case Number 2006CF9454-CF AXX

OBTS Number _____

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, J. Goldberger, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why defendant should not be sentenced as provided by law, and no cause being shown,

IT IS THE SENTENCE OF THE COURT that:

The Defendant pay a fine of \$ 0 pursuant to § _____, Florida Statutes, plus all costs and additional charges as outlined in the Order assessing additional charges, costs and fines as set forth in a separate order entered herein

The Defendant is hereby committed to the custody of the

- Department of Corrections
- Sheriff of Palm Beach County, Florida
- Department of Corrections as a youthful offender

for a term of 12 months. It is further ordered that the Defendant shall be allowed a total of 1 days as credit for time incarcerated prior to imposition of this sentence. It is further ordered that the composite term of all sentences imposed for the counts specified in the order shall run concurrently

- consecutive to concurrent with (check one) the following:
 - Any active sentence being served.
 - Specific sentences: _____

JUN 30 2008

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of the Judgment and Sentence, and any other documents specified by Florida Statute. Additionally, pursuant to §947.16(4), Florida Statutes, the Court retains jurisdiction over the Defendant.

Pursuant to §§322.055, 322.056, 322.26, 322.274, Fla. Stat., the Department of Highway Safety and Motor Vehicles is directed to revoke the Defendant's privilege to drive. The Clerk of the Court is Ordered to report the conviction and revocation to the Department of Highway Safety and Motor Vehicles.

The defendant in Open Court was advised of the right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of the Court. The Defendant was also advised of the right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

DONE AND ORDERED in Open Court at West Palm Beach, Palm Beach County, Florida this 30 day of June, 2008

[Signature]
CIRCUIT COURT JUDGE

vs.

Jeffrey Epstein

CASE NUMBER 20 06 CF 0009454 AMM
20 09 CF 009381 AMB

PLEA IN THE CIRCUIT COURT

- 1. DEFENDANT: I am the defendant in the above-mentioned matter(s), and I am represented by the attorney indicated below. I understand I have the right to be represented by an attorney at all stages of the proceeding until the case is terminated, and if I cannot afford an attorney, one will be appointed free of charge. []
- 2. DEFENDANT: I understand I have the right to a speedy and public trial either by jury or by court. I hereby waive and give up this right. []
- 3. DEFENDANT: I understand I have the right to be confronted by the witnesses against me and to cross examine them by myself or through my attorney. I hereby give up these rights. []
- 4. DEFENDANT: I understand I have the right to testify on my own behalf, but I cannot be compelled to be a witness against myself and may remain silent if I so choose. I hereby give up these rights. []
- 5. DEFENDANT: I understand I have the right to call witnesses to testify in my behalf and to invoke the compulsory process of the Court to subpoena those witnesses. I hereby give up these rights. []
- 6. DEFENDANT: I understand I have the right to appeal all matters relating to the charge(s) and, unless I plea Guilty or No Contest, specifically reserving my right to appeal, I will give up such right of appeal. []
- 7. DEFENDANT: I understand that if I am not a United States Citizen, my plea may subject me to deportation pursuant to the laws and regulations governing the United States Immigration and Naturalization Service; and, this Court has no jurisdiction (authority) in such matters. []
- 8. DEFENDANT: I have not received any promises from anyone, including my attorney, concerning eligibility for any form of early release authorized by law and further no promises have been made to me as to the actual amount of time that I will serve under the sentence to be imposed. Further, I understand that this plea may be used to enhance future criminal penalties in any court system, even if adjudication of guilt is withheld. []
- 9. DEFENDANT: I offer my plea freely and voluntarily and of my own accord, with full understanding of all matters set forth in the pleadings and this waiver. []
- 10. DEFENDANT: I have personally placed my initials in each bracket above, and I understand each and every one of the rights outlined above. I hereby waive and give up each of them in order to enter my plea to the within charge(s). I understand that even though the Court may approve the agreement of sentence, the Court is not bound by the agreement, the Court may withdraw its approval at any time before pronouncing judgment, in which case I shall be able to withdraw my plea should I desire to do so.
- 11. DEFENDANT: Choose one:
If applicable, I choose a program which is or may be spiritually based. JUN 30 2008 []
If applicable, I choose a program which is NOT spiritually based. [X]
If applicable, I have no preference if the program is or may be spiritually based. []

[Signature]
DEFENDANT

6/30/08
DATE

DEFENDANT'S ATTORNEY ONLY:

I am attorney of record. I have explained each of the above rights to the defendant and have explored the facts with him/her and studied his/her possible defenses to the charge(s). I concur with his/her decision to waive the rights and to enter this plea. I further stipulate that this document may be received by the Court as evidence of defendant's intelligent waiver of these rights and that it shall be filed by the Clerk as permanent record of that waiver.

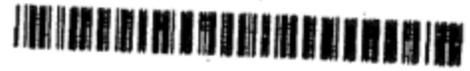
[Signature] Jack Goldberger
ATTORNEY FOR THE DEFENDANT

6/30/08
DATE

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

CASE NO. ~~06-01-0154~~ ~~AAAB~~ DIV. W

OBTS NUMBER 2006 CF 9454AXX



CFN 20080267522
 OR BK 22760 PG 1081
 RECORDED 07/17/2008 08:52:50
 Palm Beach County, Florida
 Sharon R. Bock, CLERK & COMPTROLLER
 Pg 1081; (1pg)

STATE OF FLORIDA COMMUNITY CONTROL VIOLATOR

v. Jeffrey E. Epstein PROBATION VIOLATOR

DEFENDANT

1/20/53
 DATE OF BIRTH

W
 RACE

M
 GENDER

090 44 3348
 SOCIAL SECURITY NUMBER

JUDGMENT

The above Defendant, being personally before this Court represented by J. Goldberger (attorney)

<input type="checkbox"/> Having been tried and found guilty of the following crime(s):	<input checked="" type="checkbox"/> Having entered a plea of guilty to the following crime(s):	<input type="checkbox"/> Having entered a plea of nolo contendere to the following crime(s):
--	--	--

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE
<u>1</u>	<u>Felony Solicitation of Prostitution</u>	<u>796.07(2)(f)</u>	<u>3rd</u>

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

and having been convicted or found guilty of, or having entered a plea of nolo contendere or guilty, regardless of adjudication, to attempts or offenses relating to sexual battery (ch. 794), lewd and lascivious conduct (ch. 800), or murder (s. 782.04), aggravated battery (s. 784.045), burglary (s. 810.02), carjacking (s. 812.133), or home invasion robbery (s. 812.135), or any other offense specified in section 943.325, the defendant shall be required to submit blood specimens.

and good cause being shown: IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD. JUN 30 2008

SENTENCE STAYED The Court hereby stays and withholds imposition of sentence as to count(s) and places the Defendant on Probation and/or Community Control under the supervision of the Dept. of Corrections (conditions of probation set forth in separate order).

SENTENCE DEFERRED The Court hereby defers imposition of sentence until _____.

The Defendant in Open Court was advised of his right to appeal from the Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

DONE AND ORDERED in Open Court at Palm Beach County, Florida, this 30 day of June, 2008

Debra Dale Prind

Jul 07 2008 51-A

PLEA IN THE CIRCUIT COURT
THE FOLLOWING IS TO REFLECT ALL TERMS OF THE NEGOTIATED SETTLEMENT

Name: Jeffrey E. Epstein

Plea: Guilty X

Case No	Charge	Count	Lesser	Degree
20 06CF009454AMB	Felony Solicitation of Prostitution	1	No	3 FEL
08CF009381AMB	Procuring Person Under 18 for Prostitution	1	No	2 FEL

PSI: Waived/Not Required X Required/Requested _____

ADJUDICATION: Adjudicate [x]

SENTENCE:

On 06CF009454AMB, the Defendant is sentenced to 12 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served.

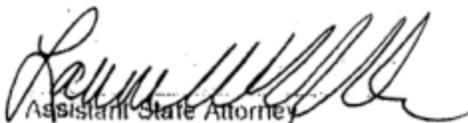
On 08CF009381AMB, the Defendant is sentenced to 6 months ^{in prison jail sentence} in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. This 6 month sentence is to be served consecutive to the 12 month sentence in 06CF009454AMB. Following this 6 month sentence, the Defendant will be placed on 12 months Community Control 1 (one). The conditions of community control are attached hereto and incorporated herein.

OTHER COMMENTS OR CONDITIONS:

As a special condition of his community control, the Defendant is to have no unsupervised contact with minors, and the supervising adult must be approved by the Department of Corrections.

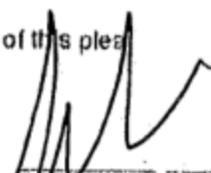
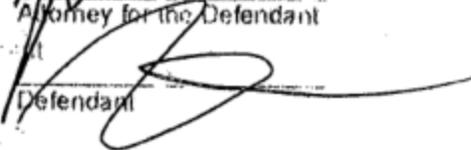
The Defendant is designated as a Sexual Offender pursuant to Florida Statute 943.0435 and must abide by all the corresponding requirements of the statute, a copy of which is attached hereto and incorporated herein.

The Defendant must provide a DNA sample in court at the time of this plea.


Assistant State Attorney

6/30/08
Date of Plea

JUN 30 2008


Attorney for the Defendant

Defendant

REC-08 4 51 E

I. COMMUNITY CONTROL STANDARD CONDITIONS:

- (a) You will remain confined to your residence except one half hour before and after your approved employment, community service work, or any other activities approved by your probation officer.
- (b) You will maintain an hourly accounting of all your activities on a daily log which you will submit to your supervising officer upon request.
- (c) The Department of Corrections, may at its discretion, places you on Electronic Monitoring during the term of your Community Control. If placed on Electronic Monitoring, you will wear a monitor at all times. You will maintain a private phone line, be financially responsible for any lost or damaged equipment and follow all rules and regulations as instructed. The telephone will be available within five working days of being placed on Electronic Monitoring Program. While on electronic monitoring you will remain confined to your residence and are prohibited from being outside the residential walls.
- (d) If while being monitored and the monitor is found to have been tampered with you shall be taken into custody immediately, if the officer determines that you were not at your scheduled place of work or school while allowed to be outside the residence then in that event you shall be taken into custody immediately. If taken into custody, you shall be held without bond and shall, on the next working day, brought before a Judge presiding over his or her case for further disposition at the discretion of the presiding Judge.
- (e) If placed on Electronic Monitoring you will pay to the State of Florida, for the cost of Electronic Monitoring \$1.00 per day, per F.S. 948.09.

(f) Defendant will be residing at 358 El Brillo Way, Palm Beach, Florida, 33480

II. DRUG OFFENDER PROBATION STANDARD CONDITIONS

- (a) You will submit to and, unless otherwise waived, be financially responsible for drug testing, urinalysis at least on a monthly basis, and counseling if deemed appropriate by your supervising officer.
- (b) You will enter and successfully complete a non-secure or inpatient drug treatment program if deemed appropriate by your officer.
- (c) You will comply with any curfew restrictions, confinement approved residence or travel restrictions as instructed by your officer and approved by the Officer's Supervisor.

III. SEX OFFENDER STANDARD CONDITIONS:

- (a) you shall submit to a mandatory curfew from 10:00 PM to 6:00 AM
- (b) (if the victim was under the age of 18 years) you shall not live within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate.
- (c) you shall enter, actively participate in, and successfully complete a sex offender treatment program with a therapist particularly trained to treat sex offender, at probationer's or community controlees expense.
- (d) you shall not have any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the therapist and sentencing court.
- (e) (if the victim was under the age of 18 years) you shall not, until you successfully attend and complete the sex offender program, have any unsupervised contact with a child under the age of 18 years, unless authorized by the sentencing court, without an adult present who is responsible for the child's welfare and which adult has been advised of the crime and is approved by the sentencing court.
- (f) (if the victim was under the age of 18 years) you shall not work for pay or as a volunteer in any school, day care center, park, playground, or other place where children regularly congregate.
- (g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, you shall not view, own, or possess any obscene, pornographic or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs or computer services that are relevant to your deviant behavior pattern.
- (h) You shall submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA Data Bank.
- (i) You shall make restitution to the victim as ordered by this court pursuant to F.S. 775.089 for all necessary medical and related professional services relating to the physical, psychiatric and psychological care of the victim.
- (j) You shall submit to a warrantless search by your probation officer or community control officer of your person, residence, or vehicle.

Handwritten notes and arrows on the left side of the page, including a large downward-pointing arrow.

(g) Defendant to have contact with his community control officer at a minimum one time a week.
(h) Defendant to work @ Florida Science Foundation, 250 Australian Ave NIDA FL.

(duplicate)

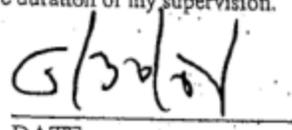
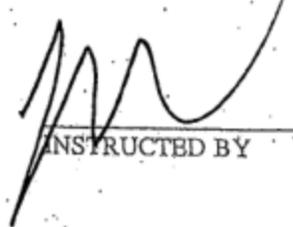
- (a) you shall submit to a mandatory curfew from 10:00 PM to 6:00 AM (if the victim was under the age of 18 years) you shall not live within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate.
- (c) you shall enter, actively participate in, and successfully complete a sex offender treatment program with a therapist particularly trained to treat sex offender, at probationer's or community controllee's expense.
- (d) you shall not have any contact with the victim; directly or indirectly, including through a third person, unless approved by the victim, the therapist and sentencing court.
- (e) (if the victim was under the age of 18 years) you shall not, until you successfully attend and complete the sex offender program, have any unsupervised contact with a child under the age of 18 years, unless authorized by the sentencing court, without an adult present who is responsible for the child's welfare and which adult has been advised of the crime and is approved by the sentencing court.
- (f) (if the victim was under the age of 18 years) you shall not work for pay or as a volunteer in any school, day care center, park, playground, or other place where children regularly congregate.
- (g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, you shall not view, own, or possess any obscene, pornographic or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs or computer services that are relevant to your deviant behavior pattern.
- (h) You shall submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA Data Bank.
- (i) You shall make restitution to the victim as ordered by this court pursuant to F.S. 775.089 for all necessary medical and related professional services relating to the physical, psychiatric and psychological care of the victim.
- (j) You shall submit to a warrantless search by your probation officer or community control officer of your person, residence, or vehicle.
- (k) you shall, as part of a treatment program, participate once/twice annually in polygraph examination to obtain information necessary for risk management and treatment and to reduce your denial mechanisms. Your polygraph examinations must be conducted by a polygrapher trained specifically in the use of polygraph for monitoring sex offenders and it shall be paid by you. The results of the polygraph examinations shall not be used as evidenced in court to prove that a violation of community supervision occurred.
- (l) You shall maintain a driving log, you shall not drive a motor vehicle while alone without prior approval of your supervising officer.
- (m) (if there was sexual contact) you shall submit to, at probationer's or community controllee's expense, an HIV test with the results to be released to the victim, or the victim's parents or guardian.
- (n) You will not obtain or use a Post Office Box without the prior approval of the supervising officer.
- (o) You will submit to electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

Other: _____

THE COURT RESERVES THE RIGHT TO RESCIND, MODIFY, OR REVOKE SUPERVISION TO THE EXTENT PROVIDED BY LAW DONE AND ORDERED AT West Palm Beach, Palm Beach County, Florida, this 30th day of June 2008
Nunc Pro Tunc: 10/5/2005.

Honorable Sandra K. McSorley
Judge, Circuit Court

I have received a copy of the terms and conditions of my supervision. I have read and understand these conditions and agree to report to the Department of Corrections Probation Office for further instructions. Also, I hereby consent to the disclosure of my alcohol and drug abuse patient records, the confidentiality of which is federally regulated under 42CFR, Part II, for the duration of my supervision.

DEFENDANT _____ DATE _____ INSTRUCTED BY _____
 AP 10/11/2005

948.101 Terms and conditions of community control and criminal quarantine community control.--

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include but is not limited to:

1. Specified contact with the parole and probation officer.
2. Confinement to an agreed-upon residence during hours away from employment and public service activities.
3. Mandatory public service.
4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.
5. The standard conditions of probation set forth in s. 948.03.

(b) For an offender placed on criminal quarantine community control, the court shall require:

1. Electronic monitoring 24 hours per day.
2. Confinement to a designated residence during designated hours.

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.



943.0435 Sexual offenders required to register with the department; penalty.--

(1) As used in this section, the term:

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or

control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.



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(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.



- (7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).
- (8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.
- (c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.
- (d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.
- (10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile

Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

- a. For a violation of s. 787.01 or s. 787.02;
- b. For a violation of s. 794.011, excluding s. 794.011(10);
- c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- d. For a violation of s. 800.04(5)(b);
- e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;
- f. For any attempt or conspiracy to commit any such offense; or
- g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to re-register.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);
3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
4. Section 800.04(5)(b);
5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;
6. Section 800.04(5)c.2. where the court finds molestation involving unclothed genitals or genital area;
7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;
8. Any attempt or conspiracy to commit such offense; or
9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.
2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.
3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.
4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or



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instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner proscribed by the department.

A handwritten signature or mark consisting of a large, stylized '2' followed by a horizontal line and a diagonal stroke.

RULE 3.992(a) CRIMINAL PUNISHMENT CODE SCORESHEET

1. DATE OF SENTENCE 6/30/08	2. PREPARER'S NAME <input type="checkbox"/> DC <input checked="" type="checkbox"/> SAO Belohlavek	3. COUNTY Palm Beach	4. SENTENCING JUDGE Fucillo
5. NAME (LAST, FIRST, MI.) Epstein, Jeffrey E.	6. DOB 1/20/53	8. RACE <input type="checkbox"/> B <input checked="" type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE
	7. DC #	9. GENDER <input checked="" type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET # 08-9381
			12. PLEA <input checked="" type="checkbox"/> TRIAL <input type="checkbox"/>

I. PRIMARY OFFENSE: If Qualifier, please check A S C R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification) **2006-9454 AX**

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
2^oF	794.03	Procuring Person Under 18 for Prostitution	07	56

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=118)
Prior capital felony triples Primary Offense points

II. ADDITIONAL OFFENSE(S): Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE	QUALIFY	COUNTS	POINTS	TOTAL
06-9454	3^oF	794.07	Felony Solicitation of Prostitution	A S C R	1	7	7

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=56)
Prior capital felony triples Additional Offense points

Supplemental page points **56.7**

III. VICTIM INJURY:

	Number	Total		Number	Total
2 nd Degree Murder	240 X	=	Slight	4 X	=
Death	120 X	=	Sex Penetration	80 X	=
Severe	40 X	=	Sex Contact	40 X	=
Moderate	18 X	=			

IV. PRIOR RECORD: Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
			□□□□		X		=
			□□□□		X		=
			□□□□		X		=
			□□□□		X		=
			□□□□		X		=
			□□□□		X		=

(Level - Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29) Supplemental page points _____

Page 1 Subtotal:

IV **56.7**
17

2008-17-1757
Jeffrey Epstein

Page 1 Subtotal 56.7

- V. Legal Status violation = 4 Points
- VI. Community Sanction violation before the court for sentencing
6 points x each successive violation OR
New felony conviction = 12 points x each successive violation
- VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points
- VIII. Prior Serious Felony = 30 Points

Subtotal Sentence Points 56.7

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enforcement Protection ___ x 1.5 ___ x 2.0 ___ x 2.5	Drug Trafficking ___ x 1.5	Grand Theft Motor Vehicle ___ x 1.5	Street Gang (offenses committed on or after 10-1-00) ___ x 1.5	Domestic Violence (offenses committed on or after 10-1-07) ___ x 1.5
---	-------------------------------	--	--	--

Enhanced Subtotal Sentence Points IX. 56.7

TOTAL SENTENCE POINTS 56.7

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction.

If total sentence points are greater than 44:

$$\frac{56.7}{\text{total sentence points}} \text{ minus } 28 = 28.7 \text{ x } .75 = \frac{21.5}{\text{lowest permissible prison sentence in months}}$$

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the code, exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

 maximum sentence
 in years

TOTAL SENTENCE IMPOSED

State Prison Life
 County Jail Time Served
 Community Control
 Probation

Years _____ Months 12 Days _____
18 months COMM. Control 12 months
 PBCJ

Please check if sentenced as habitual offender, habitual violent offender, violent career criminal, prison releasee, reoffender, or a mandatory minimum applies.

Mitigated Departure Plea Bargain

Other Reason _____

JUDGE'S SIGNATURE Donald Reubin

ALIAS NAMES: OVER 8 NAMES:
 EPSTEIN, JEFFREY - EPSTEIN, JEFFREY EDWARD -

Monday, June 30, 2008
 11:33:12 AM

**PALM BEACH SHERIFFS OFFICE
 BOOKING CARD**



INCARCERATION DATE/TIME 06/30/2008 11:13 BKG.LOC: MOBILE BOOKING
 PRISONER TYPE: LOCAL CHARGES BKG. ID #: 8548
 DOB: 01/20/1953 R/S: W/M HAIR COLOR: GRY
 AGE: 55 HEIGHT: 6 ft 0 in EYE COLOR: BLU
 SSN: 090-44-3348 WEIGHT: 200

ADDRESS: 358 EL BRILLO WY CITY: PALM BEACH STATE: FL ZIP: 33480 CITIZEN COUNTRY: USA
 ID #: 20080630061 POUCH: 3050 NCIC:
 SID #: 06587245 AFIS: 2006036744 DOC #:
 ALIEN #: U.S. MARSHAL #: INCIDENT #:
 FBI #: 787075K6 OBTS #:

ARREST ADDRESS: 205 N DIXIE HWY (MAIN CT HOUSE) CITY: WPB STATE: FL ZIP:
 ARREST DATE: 06/30/2008 ARREST TIME: 10:15
 BKG. DATE: 06/30/2008 BKG. TIME: 11:13 CURRENT BOND: \$0.00
 WARRANT/CASE#: COURT DIVISION:
 ARREST OFFICER: D/S DELPLATO ARREST AGENCY: 01 - PBSO
 TRANS. OFFICER: D/S MCINTOSH TRANS. AGENCY: 01 - PBSO

CASE TYPE: RECOMMIT-FELONY
 NOTE:

STATUTE:	CT:	DESCRIPTION:	CASE FLAG:	NO BOND	VOFC: B TYPE:	CUR. BOND:
9999.0004 (NN)	1	-RE-COMMIT				\$0.00
()	0	FELONY OFFER TO COMMIT PROSTITUTION // CASE: 2006CF009454AXXX // BKN#2006036744				\$0.00

HOLDS:

HOLD DATE/TIME:	HOLD BY:	HOLD DEPT.:	HOLD REM. DATE/TIME:	HOLD REM. BY:	HOLD REM. DEPT.:
1					
2					
3					

ALERT DESCRIPTION:	ALERT NARRATIVE:
1 31	DNA NOT ON FILE/FELONY CONVICTION
2	
3	

OVER 3 ALERTS:

KEEP SEPARATE FROM:
 NONE

OVER 8 NAMES:

FILED
 08 JUL - 1 AM 8:41
 SHARON R. BOCHNER, CLERK
 PALM BEACH COUNTY
 CIRCUIT COURT
 FILED
 08 JUN 31 AM 8:20
 SHARON R. BOCHNER, CLERK
 PALM BEACH COUNTY
 CIRCUIT COURT

ASSIGNED HOUSING: _____ NTA DATE/TIME: _____ NTA LOC: _____
 NCIC INTAKE: _____ NCIC RELEASE: _____ F.P. ENTERED: _____ F.P. CLEAR: _____
 PALMS REL.: _____ PHOTO ID: _____ CLASSIFICATION: _____ MED. CLEAR IN: _____
 MED. CLEAR REL: _____ RELEASE MOVE: _____

RELEASE DATE/TIME: _____ RELEASE INFORMATION: _____

COURT DATE/TIME: _____ COURT LOCATION: _____

CLERK WARRANTS STATE ATTY CENTRAL RCDS CLASS

DE 19 52
 JUL - 1 2008

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

STATE OF FLORIDA

CASE NO.: 2006CF009454AXX

vs.

DIVISION: "W"

JEFFREY EPSTEIN,

Defendant.

FILED
2008 JUL -2 PM 3:40
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL

AGREED ORDER SEALING DOCUMENT IN COURT FILE

THIS MATTER came before the Honorable Judge Deborah Dale Pucillo on June 30, 2008 during a plea conference in the above-referenced case number. The Court being fully apprised in the circumstances, it is hereby:

ORDERED AND ADJUDGED that the *attached* document filed by the Defendant on July 2, 2008 be sealed by the Clerk in the court file.

DONE AND ORDERED in chambers, West Palm Beach, Palm Beach County, Florida this 2 day of July, 2008.

Deborah Dale Pucillo
DEBORAH DALE PUCILLO
Circuit Court Judge

Copies forwarded to:

Jack A. Goldberger, Esq.
Counsel for the Defendant
250 Australian Avenue South, Ste. 1400
West Palm Beach, Florida 33401

Lanna Belohlavek, Esq.
Assistant State Attorney
(interoffice)

AB JUL 03 2008
2054

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

CASE NO. 2006 CF 009454AXX

DIVISION W

STATE OF FLORIDA

vs.

Jeffrey Epstein

ON July 2, 2008

FILED
2008 JUL -2 PM 3:40
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
FEDERAL CRIMINAL

Psychiatric (Medical, etc.) Report dated _____
from _____

Presentence Investigation Report dated _____
from _____

Other Non-Prosecution Agreement

**SEALED IN COURT FILE, NOT TO BE
OPENED WITHOUT ORDER OF COURT**

21
JUL 03 2008