

LRJ

**U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:08-cv-80381-KAM**

Doe No. 5 ■ Epstein
Assigned to: Judge Kenneth A. Marra
Lead case: 9:08-cv-80119-KAM
Member case: (View Member Case)
Case: 9:09-cv-80802-KAM
Cause: 28:1332 Diversity

Date Filed: 04/14/2008
Jury Demand: Plaintiff
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

Jane Doe No. 5

represented by **Adam D. Horowitz**
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Defendant

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Date Filed	#	Docket Text
04/14/2008	<u>1</u>	COMPLAINT against Jeffrey Epstein Filing fee \$ 350. Receipt#: 542770, filed by Jane Doe No. 5.(dj) (Entered: 04/15/2008)
04/14/2008	<u>2</u>	Summons Issued as to Jeffrey Epstein. (dj) (Entered: 04/15/2008)
04/17/2008	<u>3</u>	Order Requiring Counsel to Confer and File Joint Scheduling Report.Signed by Judge Kenneth A. Marra on 4/16/08.(ir) (Entered: 04/17/2008)
05/22/2008	<u>4</u>	AFFIDAVIT of Service for Summons and Complaint served on Jeffrey Epstein on May 7, 2008, filed by Jane Doe No. 5. (Herman, Jeffrey) (Entered: 05/22/2008)
05/29/2008	<u>5</u>	Plaintiff's MOTION for Entry of Default by Clerk <i>Against Defendant</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Exhibit A and B, # <u>2</u> Text of Proposed Order Default Order)(Horowitz, Adam) (Entered: 05/29/2008)
06/02/2008	<u>6</u>	Clerks Entry of Default as to Jeffrey Epstein terminated <u>5</u> Motion for Entry of Default by Clerk (ail) (Entered: 06/02/2008)
06/05/2008	<u>7</u>	Plaintiff's MOTION for Judgment <i>Upon Default and Order Setting Hearing on Damages</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order) (Horowitz, Adam) (Entered: 06/05/2008)
06/13/2008	<u>8</u>	NOTICE of Attorney Appearance by Jack Alan Goldberger on behalf of Jeffrey Epstein (Goldberger, Jack) (Entered: 06/13/2008)
06/13/2008	<u>9</u>	MOTION to Set Aside <i>Clerk's Default</i> by Jeffrey Epstein. (Attachments: # <u>1</u> Affidavit of Richard Barnett)(Goldberger, Jack) (Entered: 06/13/2008)
06/19/2008	<u>10</u>	RESPONSE in Opposition re <u>7</u> Plaintiff's MOTION for Judgment <i>Upon Default and Order Setting Hearing on Damages (DE #7)</i> filed by Jeffrey Epstein. (Goldberger, Jack) (Entered: 06/19/2008)
06/20/2008	<u>11</u>	Defendant's MOTION to Stay by Jeffrey Epstein. Responses due by 7/10/2008 (Goldberger, Jack) (Entered: 06/20/2008)
06/20/2008	<u>12</u>	Defendant's MOTION for Extension of Time to File Answer <i>or Otherwise Respond To Complaint</i> by Jeffrey Epstein. (Goldberger, Jack) (Entered: 06/20/2008)
06/25/2008	<u>13</u>	MEMORANDUM in Support re <u>7</u> Plaintiff's MOTION for Judgment <i>Upon Default and Order Setting Hearing on Damages</i> filed by Jane Doe No. 5. (Herman, Jeffrey) (Entered: 06/25/2008)

06/25/2008	<u>14</u>	RESPONSE to Motion re <u>9</u> MOTION to Set Aside <i>Clerk's Default</i> filed by Jane Doe No. 5. Replies due by 7/7/2008. (Herman, Jeffrey) (Entered: 06/25/2008)
07/01/2008	<u>15</u>	NOTICE by Jeffrey Epstein <i>Concerning Motion To Stay [DE 11]</i> (Attachments: # <u>1</u> Exhibit "A" Final Disposition Sheets)(Goldberger, Jack) (Entered: 07/01/2008)
07/07/2008	<u>16</u>	NOTICE of Attorney Appearance by Michael Ross Tein on behalf of Jeffrey Epstein (Tein, Michael) (Entered: 07/07/2008)
07/07/2008	<u>17</u>	MOTION Epstein's Reply in Support of Motion [DE9] to Set Asside Clerk's Default by Jeffrey Epstein. (Tein, Michael) (Entered: 07/07/2008)
07/08/2008	<u>18</u>	RESPONSE in Support re <u>9</u> MOTION to Set Aside <i>Clerk's Default</i> filed by Jeffrey Epstein. (Goldberger, Jack) (Entered: 07/08/2008)
07/08/2008	<u>19</u>	NOTICE by Jeffrey Epstein re <u>18</u> Response in Support of Motion [DE 9] To Set Aside <i>Clerk's Default</i> (Goldberger, Jack) (Entered: 07/08/2008)
07/08/2008	<u>20</u>	NOTICE of Instruction to Filer: re <u>17</u> MOTION Epstein's Reply in Support of Motion [DE9] to Set Asside Clerk's Default filed by Jeffrey Epstein Error: Wrong Event Selected; Instruction to Filer: Counsel is instructed to re-file document using the correct event REPLY TO RESPONSE TO MOTION; In the future please select the proper event. (dg) (Entered: 07/08/2008)
07/08/2008	<u>21</u>	REPLY to Response to Motion re <u>17</u> MOTION Epstein's Reply in Support of Motion [DE9] to Set Asside Clerk's Default, <u>9</u> MOTION to Set Aside <i>Clerk's Default Epstein's Reply in Support of Motion [DE9] to Set Aside Clerk's Default</i> filed by Jeffrey Epstein. (Tein, Michael) (Entered: 07/08/2008)
07/10/2008	<u>22</u>	Plaintiff's MOTION for Extension of Time to File Response as to <u>11</u> Defendant's MOTION to Stay by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order)(Horowitz, Adam) (Entered: 07/10/2008)
07/10/2008	<u>23</u>	Sealed Document. (yc) UNSEALED see DE <u>27</u> .Modified on 7/17/2008 (tb). (Entered: 07/10/2008)
07/10/2008	<u>24</u>	Sealed Document. (yc)UNSEALED see DE <u>28</u> . Modified on 7/17/2008 (tb). (Entered: 07/10/2008)
07/10/2008	<u>27</u>	UNSEALED MOTION to seal by Jeffrey Epstein.(previously filed as 23 sealed document) (tb) (Entered: 07/17/2008)
07/10/2008	<u>28</u>	UNSEALED Notice of Continued Pendency of Federal Criminal Action by Jeffrey Epstein (previously filed as 24 sealed document) (tb) (Entered: 07/17/2008)
07/16/2008	<u>25</u>	ORDER denying motion to file Ex Parte and Under Seal. The Clerk shall unseal DE 23 and 24 and make them available for public inspection through CM/ECF at the earliest possible time. Signed by Judge Kenneth A. Marra on 7/16/08. (ir) (Additional attachment(s) added on 7/17/2008: # <u>1</u> docket sheet) (tb). (Entered: 07/16/2008)
07/16/2008	<u>26</u>	OPINION AND ORDER denying without prejudice <u>9</u> Motion to Set Aside

		Default. The Defendant has ten days to file a second motion to vacate the default. Signed by Judge Kenneth A. Marra on 7/16/08. (ir) (Entered: 07/16/2008)
07/18/2008	<u>29</u>	RESPONSE to Motion re <u>11</u> Defendant's MOTION to Stay <i>and Memorandum of Law</i> filed by Jane Doe No. 5. Replies due by 7/28/2008. (Attachments: # <u>1</u> Exhibit A)(Herman, Jeffrey) (Entered: 07/18/2008)
07/21/2008	<u>30</u>	AFFIDAVIT signed by : Jeffrey M. Herman. <i>Regarding Service of Process and this Court's Order to Show Cause</i> by Jane Doe No. 5. (Herman, Jeffrey) (Entered: 07/21/2008)
07/25/2008	<u>31</u>	MOTION for Hearing <i>Defendant's Request for Oral Argument</i> by Jeffrey Epstein. (Tein, Michael) (Entered: 07/25/2008)
07/25/2008	<u>32</u>	ORDER vacating <u>26</u> Order on Motion to Set Aside, vacating <u>6</u> Clerks Entry of Default filed by Jeffrey Epstein, granting <u>9</u> MOTION to Set Aside <i>Clerk's Default</i> filed by Jeffrey Epstein. Signed by Judge Kenneth A. Marra on 7/25/08. (ir) (Entered: 07/25/2008)
07/28/2008	<u>33</u>	UNSEALED Sealed Document. (tas) Modified on 8/12/2008 **Please see DE # 41 for Image** (gp). (Entered: 07/28/2008)
07/28/2008	<u>34</u>	UNSEALED Sealed Document. (tas) Modified on 8/12/2008 **Please see DE # 42 for Image** (gp). (Entered: 07/28/2008)
07/28/2008	<u>41</u>	UNSEALED MOTION for Leave to File by Jeffrey Epstein. {Originally DE # 33 } (gp) (Entered: 08/12/2008)
07/28/2008	<u>42</u>	UNSEALED REPLY to Response to Motion re <u>11</u> Defendant's MOTION to Stay filed by Jeffrey Epstein. {Originally DE # 34 } (gp) (Entered: 08/12/2008)
07/29/2008	<u>35</u>	NOTICE by Jeffrey Epstein <i>Defendant's Notice of Filing Exhibits</i> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Tein, Michael) (Entered: 07/29/2008)
07/30/2008	<u>36</u>	NOTICE by Jeffrey Epstein <i>Waiver of Service</i> (Tein, Michael) (Entered: 07/30/2008)
08/05/2008	<u>37</u>	ORDER DENYING MOTION TO SEAL. The Clerk shall unseal DE 33 Sealed Document, 34 Sealed Document and make them available for public inspection through CM/ECF. Signed by Judge Kenneth A. Marra on 8/4/08. (ir) (Entered: 08/05/2008)
08/05/2008	<u>38</u>	ORDER denying <u>11</u> Motion to Stay; granting nunc pro tunc <u>22</u> Motion for Extension of Time to Respond ; denying as moot <u>31</u> Motion for Hearing. Signed by Judge Kenneth A. Marra on 8/4/08. (ir) (Entered: 08/05/2008)
08/06/2008	<u>39</u>	Joint MOTION <i>to Approve Stipulation for Acceptance of Service of Process and Agreed Date for Defendant's Responses to Complaints</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Stipulation, # <u>2</u> Text of Proposed Order Approving Stipulation)(Herman, Jeffrey) (Entered: 08/06/2008)
08/07/2008	<u>40</u>	ENDORSED ORDER granting <u>39</u> Motion to Approve Stipulation for

		Acceptance of Service of Process and Agreed Date for Defendant's Responses to Complaints. Signed by Judge Kenneth A. Marra on 8/6/08. (ir) (Entered: 08/07/2008)
08/07/2008		Reset Answer Due Deadline: Jeffrey Epstein response due 9/4/2008. (ir) (Entered: 08/07/2008)
08/27/2008	<u>43</u>	NOTICE by Jeffrey Epstein <i>Notice of Appearance</i> (Pike, Michael) (Entered: 08/27/2008)
08/28/2008		Clerks Notice of Docket Correction and Instruction to Filer re <u>43</u> Notice (Other) filed by Jeffrey Epstein. Error - Wrong Event Selected ; Correction - Redocketed by Clerk as NOTICE of Attorney Appearance. Instruction to Filer - In the future, please select the proper event. It is not necessary to refile this document. (ail) (Entered: 08/28/2008)
08/28/2008	44	NOTICE of Attorney Appearance by Michael James Pike, Robert Deweese Critton, Jr on behalf of Jeffrey Epstein (ail) (Entered: 08/28/2008)
09/04/2008	<u>45</u>	Defendant's MOTION to Dismiss <u>1</u> Complaint by Jeffrey Epstein. Responses due by 9/22/2008 (Tein, Michael) (Entered: 09/04/2008)
09/22/2008	<u>46</u>	MEMORANDUM in Opposition re <u>45</u> Defendant's MOTION to Dismiss <u>1</u> Complaint filed by Jane Doe No. 5. (Herman, Jeffrey) (Entered: 09/22/2008)
09/22/2008	<u>47</u>	AMENDED COMPLAINT, filed by Jane Doe No. 5.(Herman, Jeffrey) (Entered: 09/22/2008)
09/23/2008	48	ENDORSED ORDER denying as moot <u>7</u> Motion for Judgment upon Default. Clerk's entry of default vacated on 7/25/08. See DE <u>32</u> . Signed by Judge Kenneth A. Marra on 9/23/08. (ir) (Entered: 09/23/2008)
09/23/2008	<u>49</u>	ORDER denying as moot <u>45</u> Motion to Dismiss; denying as moot <u>12</u> Motion for Extension of Time to Respond to Complaint. Signed by Judge Kenneth A. Marra on 9/23/08. (ir) (Entered: 09/23/2008)
09/25/2008	<u>50</u>	SCHEDULING REPORT- Rule 26(f). (Herman, Jeffrey) (Entered: 09/25/2008)
09/30/2008	<u>51</u>	SCHEDULING ORDER: Jury Trial set for 1/25/2010 09:00 AM in West Palm Beach Division before Judge Kenneth A. Marra. Calendar Call set for 1/22/2010 10:00 AM in West Palm Beach Division before Judge Kenneth A. Marra., Amended Pleadings due by 12/1/2008. Discovery due by 8/3/2009. Motions due by 8/31/2009. ORDER REFERRING CASE to Magistrate Judge Linnea R. Johnson for Discovery Proceedings, ORDER REFERRING CASE to Mediation. 15 days to appoint mediator. Signed by Judge Kenneth A. Marra on 9/29/08. (ir) (Entered: 09/30/2008)
10/06/2008	<u>52</u>	Defendant's MOTION to Dismiss <u>47</u> Amended Complaint <i>and for More Definite Statement</i> by Jeffrey Epstein. Responses due by 10/24/2008 (Critton, Robert) (Entered: 10/06/2008)
10/24/2008	<u>53</u>	Unopposed MOTION for Extension of Time to File Response as to <u>52</u> Defendant's MOTION to Dismiss <u>47</u> Amended Complaint <i>and for More</i>

		<i>Definite Statement</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order)(Herman, Jeffrey) (Entered: 10/24/2008)
10/27/2008	<u>54</u>	ORDER granting (47 in 9:08-cv-80119-KAM) Unopposed MOTION for Extension of Time to File Response as to (46) Defendant's MOTION to Dismiss (42) Amended Complaint <i>and for More Definite Statement</i> (Responses due by 10/31/2008) in case 9:08-cv-80119-KAM; granting (43) Motion for Extension of Time to Respond re (47 in 9:08-cv-80119-KAM) Unopposed MOTION for Extension of Time to File Response as to (46) Defendant's MOTION to Dismiss (42) Amended Complaint <i>and for More Definite Statement</i> in case 9:08-cv-80232-KAM; granting (55) Motion for Extension of Time to Respond re (47 in 9:08-cv-80119-KAM) Unopposed MOTION for Extension of Time to File Response as to (46) Defendant's MOTION to Dismiss (42) Amended Complaint <i>and for More Definite Statement</i> in case 9:08-cv-80380-KAM; granting (53) Motion for Extension of Time to Respond re (47 in 9:08-cv-80119-KAM) Unopposed MOTION for Extension of Time to File Response as to (46) Defendant's MOTION to Dismiss (42) Amended Complaint <i>and for More Definite Statement</i> in case 9:08-cv-80381-KAM in case 9:08-cv-80119-KAM. Signed by Judge Kenneth A. Marra on 10/24/2008. (ir) (Entered: 10/27/2008)
10/28/2008		Reset Deadlines as to Defendant's MOTION to Dismiss (49) Amended Complaint <i>and for More Definite Statement</i> . Responses due by 10/31/2008. (ir) (Entered: 10/28/2008)
10/31/2008	<u>55</u>	MEMORANDUM in Opposition re <u>52</u> Defendant's MOTION to Dismiss <u>47</u> Amended Complaint <i>and for More Definite Statement</i> filed by Jane Doe No. 5. (Attachments: # <u>1</u> Exhibit A)(Herman, Jeffrey) (Entered: 10/31/2008)
11/10/2008	<u>56</u>	RESPONSE/REPLY to <u>55</u> Memorandum in Opposition to <i>Defendant's Motion to Dismiss</i> filed by Jeffrey Epstein. (Critton, Robert) (Entered: 11/10/2008)
12/30/2008	<u>57</u>	NOTICE by Jeffrey Epstein of <i>Withdrawal as Co-Counsel</i> (Tein, Michael) (Entered: 12/30/2008)
02/12/2009	<u>58</u>	OPINION AND ORDER granting in part and denying in part <u>52</u> Motion to Dismiss. Signed by Judge Kenneth A. Marra on 2/12/2009. (ir) (Entered: 02/12/2009)
02/23/2009	<u>59</u>	NOTICE by Jane Doe No. 5 of <i>Change of Name of Plaintiff's Counsel</i> (Horowitz, Adam) (Entered: 02/23/2009)
02/27/2009	<u>60</u>	AMENDED COMPLAINT (<i>Second</i>), filed by Jane Doe No. 5.(Horowitz, Adam) (Entered: 02/27/2009)
03/02/2009	<u>61</u>	Plaintiff's MOTION to Compel <i>Answers to Interrogatories and Production of Documents and Incorporated Memorandum of Law in Support</i> by Jane Doe No. 5. Responses due by 3/19/2009 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Horowitz, Adam) (Entered: 03/02/2009)
03/04/2009	<u>62</u>	Defendant's MOTION for Extension of Time to File Response as to <u>60</u> Amended Complaint <i>with proposed Order</i> by Jeffrey Epstein. (Critton, Robert) (Entered: 03/04/2009)

03/05/2009	63	ENDORSED ORDER granting <u>62</u> Motion for Extension of Time to Answer Complaint. Jeffrey Epstein response due 4/3/2009. Signed by Judge Kenneth A. Marra on 3/5/2009. (ir) (Entered: 03/05/2009)
03/06/2009	64	Defendant's MOTION for Extension of Time to File Response as to <u>61</u> Plaintiff's MOTION to Compel <i>Answers to Interrogatories and Production of Documents and Incorporated Memorandum of Law in Support with proposed Order</i> by Jeffrey Epstein. (Critton, Robert) (Entered: 03/06/2009)
03/18/2009	65	Defendant's MOTION for Leave to File Excess Pages <i>with proposed Order</i> in Response to <u>61</u> Motion to Compel Answers and Interrogatories and Production of Documents, Including Supporting Memorandum of Law by Jeffrey Epstein. (Critton, Robert) Modified link and text on 3/19/2009 (tas). (Entered: 03/18/2009)
03/19/2009	66	Clerks Notice of Docket Correction and Instruction to Filer re <u>65</u> Defendant's MOTION for Leave to File Excess Pages <i>with proposed Order</i> filed by Jeffrey Epstein. Error - Incorrect Document Link/No Link ; Correction - Document relinked properly by Clerk. Instruction to filer - In the future, please link the document to the proper entry. It is not necessary to refile this document. (tas) (Entered: 03/19/2009)
03/25/2009	67	RESPONSE to Motion re <u>61</u> Plaintiff's MOTION to Compel <i>Answers to Interrogatories and Production of Documents and Incorporated Memorandum of Law in Support</i> filed by Jeffrey Epstein. Replies due by 4/6/2009. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit [REDACTED])(Critton, Robert) (Entered: 03/25/2009)
03/25/2009	68	Defendant's MOTION to Stay re <u>60</u> Amended Complaint by Jeffrey Epstein. Responses due by 4/13/2009 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit [REDACTED])(Pike, Michael) (Entered: 03/25/2009)
04/02/2009	69	Defendant's MOTION to Compel <i>Response to 1st RTP</i> by Jeffrey Epstein. Responses due by 4/20/2009 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit [REDACTED] , # <u>4</u> Exhibit D)(Critton, Robert) (Entered: 04/02/2009)
04/02/2009	70	Defendant's MOTION to Compel <i>Answers to 1st Interrogs</i> by Jeffrey Epstein. Responses due by 4/20/2009 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit [REDACTED])(Critton, Robert) (Entered: 04/02/2009)
04/02/2009	71	<i>Defendant's</i> ANSWER and Affirmative Defenses to Amended Complaint (<i>Second</i>) by Jeffrey Epstein.(Critton, Robert) (Entered: 04/02/2009)
04/03/2009	72	Unopposed MOTION for Extension of Time to File Reply as to <u>67</u> Response to Motion, <i>to Compel Answers to Interrogatories and Production of Documents</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order) (Mermelstein, Stuart) (Entered: 04/03/2009)
04/13/2009	73	Unopposed MOTION for Extension of Time to File Response <i>/Memorandum in Opposition to Motion to Stay and/or Continue Action</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order)(Mermelstein, Stuart) (Entered: 04/13/2009)
04/14/2009	74	ENDORSED ORDER granting (75) Motion for Extension of Time to Respond

		re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80119-KAM; granting (67) Motion for Extension of Time to Respond re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80232-KAM; granting (82) Motion for Extension of Time to Respond re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80380-KAM; granting (73) Motion for Extension of Time to Respond re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80381-KAM; granting (33) Motion for Extension of Time to Respond re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80993-KAM; granting (27) Motion for Extension of Time to Respond re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80994-KAM in case 9:08-cv-80119-KAM. (Responses due by 4/23/2009). Signed by Judge Kenneth A. Marra on 4/14/2009. (ir) (Entered: 04/14/2009)
04/17/2009	<u>75</u>	Unopposed MOTION for Extension of Time to File Response as to <u>70</u> Defendant's MOTION to Compel <i>Answers to 1st Interrogs</i> , <u>69</u> Defendant's MOTION to Compel <i>Respne to 1st RTP</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order)(Mermelstein, Stuart) (Entered: 04/17/2009)
04/20/2009	<u>76</u>	MEMORANDUM in Support re <u>61</u> Plaintiff's MOTION to Compel <i>Answers to Interrogatories and Production of Documents and Incorporated Memorandum of Law in Support</i> by Jane Doe No. 5. (Mermelstein, Stuart) (Entered: 04/20/2009)
04/23/2009	<u>77</u>	RESPONSE in Opposition re <u>68</u> Defendant's MOTION to Stay re <u>60</u> Amended Complaint filed by Jane Doe No. 5. (Mermelstein, Stuart) (Entered: 04/23/2009)
04/28/2009	<u>78</u>	ORDER TO SHOW CAUSE why cases should not be consolidated for discovery purposes Show Cause Response due by 5/5/2009.. Signed by Judge Kenneth A. Marra on 4/28/2009. (cqs) (Entered: 04/29/2009)
04/29/2009	<u>79</u>	Unopposed MOTION for Extension of Time to File Response as to <u>70</u> Defendant's MOTION to Compel <i>Answers to 1st Interrogs</i> , <u>69</u> Defendant's MOTION to Compel <i>Respne to 1st RTP</i> by Jane Doe No. 5. (Attachments: # <u>1</u> Text of Proposed Order)(Mermelstein, Stuart) (Entered: 04/29/2009)
05/04/2009	<u>80</u>	MEMORANDUM in Opposition re <u>78</u> Order to Show Cause by Jeffrey Epstein. (Pike, Michael) (Entered: 05/04/2009)
05/05/2009	<u>81</u>	RESPONSE TO ORDER TO SHOW CAUSE by Jane Doe No. 5. (Mermelstein, Stuart) (Entered: 05/05/2009)
05/05/2009	<u>82</u>	Defendant's MOTION for Extension of Time to File Reply as to <u>77</u> Response in Opposition to Motion <i>to Stay</i> by Jeffrey Epstein. (Pike, Michael) (Entered: 05/05/2009)
05/06/2009	<u>83</u>	ENDORSED ORDER granting (89) Motion for Extension of Time to Reply re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint; granting (81) Motion for Extension of Time to Reply re (65 in

		9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80232-KAM; granting (97) Motion for Extension of Time to Reply re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80380-KAM; granting (82) Motion for Extension of Time to Reply re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80381-KAM; granting (46) Motion for Extension of Time to Reply re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80993-KAM; granting (37) Motion for Extension of Time to Reply re (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint in case 9:08-cv-80994-KAM in case 9:08-cv-80119-KAM. (Replies due by 5/20/2009.). Signed by Judge Kenneth A. Marra on 5/5/2009. (ir) (Entered: 05/06/2009)
05/06/2009	<u>84</u>	RESPONSE in Opposition re <u>70</u> Defendant's MOTION to Compel <i>Answers to 1st Interrogs and for an Award of Reasonable Expenses</i> filed by Jane Doe No. 5. (Horowitz, Adam) (Entered: 05/06/2009)
05/06/2009	<u>85</u>	RESPONSE in Opposition re <u>69</u> Defendant's MOTION to Compel <i>Response to 1st RTP , Overrule Objections and for an Award of Reasonable Expenses</i> filed by Jane Doe No. 5. (Attachments: # <u>1</u> Exhibit A)(Horowitz, Adam) (Entered: 05/06/2009)
05/06/2009	<u>86</u>	Defendant's MOTION to Compel <i>Identity of Doe #5 in Style of Case and Third-Party Subpoenas</i> by Jeffrey Epstein. Responses due by 5/26/2009 (Attachments: # <u>1</u> Exhibit A)(Pike, Michael) (Entered: 05/06/2009)
05/11/2009	<u>87</u>	Defendant's MOTION for Order requiring that plaintiff use Proper Case Style in all Filings by Jeffrey Epstein. (Critton, Robert) Modified on 5/13/2009 (ls). [Text modified by Clerk] (Entered: 05/11/2009)
05/13/2009	<u>88</u>	Clerks Notice of Docket Correction and Instruction to Filer re <u>87</u> Defendant's MOTION Require Plaintiff to Use Proper Case Style filed by Jeffrey Epstein. Error - Docket text does not match document ; Correction - Docket text modified by Clerk. It is not necessary to refile this document. (ls) (Entered: 05/13/2009)
05/13/2009	<u>89</u>	RESPONSE/REPLY to <u>77</u> Response in Opposition to Motion to Stay and/or Continue Action by Jeffrey Epstein. (Pike, Michael) (Entered: 05/13/2009)
05/14/2009		Cases associated. (dg) (Entered: 05/14/2009)
05/14/2009	<u>90</u>	ORDER CONSOLIDATING CASES. Hereinafter all motions and other court filings that relate to discovery and all procedural motions that relate to multiple cases shall be styled with all of the case names and numbers and shall be filed in Case No. 08-80119-CIV-MARRA. Signed by Judge Kenneth A. Marra on 5/14/2009. Associated Cases: 9:08-cv-80119-KAM et al. (ir) (Entered: 05/14/2009)
05/14/2009	<u>91</u>	ORDER REQUESTING UNITED STATES PROVIDE POSITION TO MOTION TO STAY. Signed by Judge Kenneth A. Marra on 5/14/2009. (Attachments: # <u>1</u> Appendix Motion to Stay DE 51) Associated Cases: 9:08-cv-80119-KAM et al. (ir) (Entered: 05/14/2009)

05/14/2009	92	ORDER denying as moot <u>87</u> Motion. See Order consolidating cases.. Signed by Judge Kenneth A. Marra on 05/15/2009. (lc3) (Entered: 05/14/2009)
05/14/2009	93	ORDER terminating <u>68</u> Motion to Stay; terminating <u>86</u> Motion to Compel. See Order consolidating cases. See procedural motions pending: DE 65 and DE 91 in 08-80119.. Signed by Judge Kenneth A. Marra on 5/15/2009. (lc3) (Entered: 05/14/2009)
05/18/2009	<u>94</u>	Defendant's MOTION for Extension of Time to File Reply as to (39 in 9:08-cv-80994-KAM) Response in Opposition to Motion, (40 in 9:08-cv-80994-KAM) Response in Opposition to Motion by Jeffrey Epstein. Associated Cases: 9:08-cv-80119-KAM et al.(Pike, Michael) (Entered: 05/18/2009)
05/19/2009	<u>95</u>	Defendant's MOTION to Strike <i>Cases from Current Trial Docket</i> by Jeffrey Epstein. Responses due by 6/8/2009 (Attachments: # <u>1</u> Exhibit A)Associated Cases: 9:08-cv-80119-KAM et al.(Pike, Michael) (Entered: 05/19/2009)
05/19/2009	<u>96</u>	MOTION for Leave to Withdraw as Co-Counsel by Jeffrey Epstein. (Attachments: # <u>1</u> Text of Proposed Order)(Tein, Michael) Event Modified on 5/20/2009 (ail). (Entered: 05/19/2009)
05/20/2009	97	ORDER terminating (93) Motion to Strike ; terminating (94) Motion in case 9:08-cv-80232-KAM; terminating (110) Motion to Strike ; terminating (111) Motion in case 9:08-cv-80380-KAM; terminating (95) Motion to Strike ; terminating (96) Motion in case 9:08-cv-80381-KAM; terminating (90) Motion to Strike ; terminating (91) Motion in case 9:08-cv-80811-KAM; terminating (62) Motion to Strike in case 9:08-cv-80893-KAM; terminating (62) Motion to Strike in case 9:08-cv-80993-KAM; terminating (50) Motion to Strike in case 9:08-cv-80994-KAM. Signed by Judge Kenneth A. Marra on 5/20/2009. (lc3) (Entered: 05/20/2009)
05/20/2009	<u>98</u>	NOTICE by ██████. of <i>Filing Withdrawal of Previously Raised Objections to Defendant, Jeffrey Epstein's Motion to Compel And/Or Identify ██████. in the Style of This Case and Motion to Identify ██████. in Third-Party Subpoenas for Purposes of Discovery, Or, Alternatively, Motion to Dismiss Sua Sponte, With Incorporated Memorandum of Law</i> Associated Cases: 9:08-cv-80119-KAM et al.(Hill, Jack) (Entered: 05/20/2009)
05/20/2009	99	Clerks Notice of Docket Correction and Instruction to Filer re <u>96</u> MOTION <i>Motion for Leave to Withdraw as Co-Counsel</i> filed by Jeffrey Epstein. The Filer selected the wrong motion relief when docketing the Motion. The correction was made by the Clerk. It is not necessary to refile this document but future motions filed must include all applicable relief events. (ail) (Entered: 05/20/2009)
05/20/2009	100	ORDER STRIKING in all Epstein cases EXCEPT case no. 08-80119: Notice by ██████. of <i>Filing Withdrawal of Previously Raised Objections to Epstein's Motion to Compel and/or Identify</i> . This Notice should only be filed in 08-80119, not in all of the Epstein cases.. Signed by Judge Kenneth A. Marra on 5/20/2009. Associated Cases: 9:08-cv-80119-KAM et al. (lc3) (Entered: 05/20/2009)
05/21/2009	<u>101</u>	Plaintiff's MOTION for Extension of Time to File Response as to (91 in 9:08-

		cv-80119-KAM) Defendant's MOTION to Compel <i>Identity of Doe in Style of Case and Third-Party Subpoenas (replaces Docket entry 90)</i> by Jane Doe No. 6, Jane Doe No. 7, Jane Doe, Jane Doe No. 5, Jane Doe No. 4, Jane Doe No. 3. Associated Cases: 9:08-cv-80119-KAM et al.(Mermelstein, Stuart) (Entered: 05/21/2009)
05/22/2009	102	ORDER terminating (100) Motion for Extension of Time to Respond in case 9:08-cv-80232-KAM; terminating (117) Motion for Extension of Time to Respond in case 9:08-cv-80380-KAM; terminating (101) Motion for Extension of Time to Respond in case 9:08-cv-80381-KAM; terminating (67) Motion for Extension of Time to Respond in case 9:08-cv-80993-KAM; terminating (54) Motion for Extension of Time to Respond in case 9:08-cv-80994-KAM. The attorneys are instructed again to ONLY file this type of motion in case no. 08-80119. See Order consolidating cases for details.. Signed by Judge Kenneth A. Marra on 5/22/2009. (lc3) (Entered: 05/22/2009)
05/27/2009	103	NOTICE by Jane Doe re (111 in 9:08-cv-80119-KAM) Plaintiff's MOTION for Extension of Time to File Response as to (91 in 9:08-cv-80119-KAM) Defendant's MOTION to Compel <i>Identity of Doe in Style of Case and Third-Party Subpoenas (replaces Docket entry 90)</i> Plaintiff's MOTION for Extension of Time to File Response as to (91 in 9:08-cv-80119-KAM) Defendant's MOTION to Compel <i>Identity of Doe in Style of Case and Third-Party Subpoenas (replaces Docket entry 90)</i> (Attachments: # 1 Text of Proposed Order) Associated Cases: 9:08-cv-80119-KAM et al.(Horowitz, Adam) (Entered: 05/27/2009)
05/28/2009	104	ORDER STRIKING Notice by Jane Doe in all Epstein cases EXCEPT in case 08-80119. This Notice should only be filed in 08-80119, not in all of the Epstein cases... Signed by Judge Kenneth A. Marra on 5/28/2009. Associated Cases: 9:08-cv-80119-KAM et al. (lc3) (Entered: 05/28/2009)
05/29/2009	105	NOTICE of Attorney Appearance by [REDACTED] on behalf of United States of America Associated Cases: 9:08-cv-80119-KAM et al. ([REDACTED], [REDACTED]) (Entered: 05/29/2009)
05/29/2009	106	RESPONSE to Motion re (72 in 9:08-cv-80380-KAM) Defendant's MOTION to Stay re (62) Amended Complaint, (57 in 9:08-cv-80232-KAM) Defendant's MOTION to Stay re (50) Amended Complaint, (24 in 9:08-cv-80893-KAM) Defendant's MOTION to Stay re (1) Complaint, (23 in 9:08-cv-80994-KAM) Defendant's MOTION to Stay re (18) Amended Complaint, (22 in 9:08-cv-80993-KAM) Defendant's MOTION to Stay re (19) Amended Complaint, (65 in 9:08-cv-80119-KAM) Defendant's MOTION to Stay re (56) Amended Complaint, (68 in 9:08-cv-80381-KAM) Defendant's MOTION to Stay re (60) Amended Complaint, (51 in 9:08-cv-80811-KAM) Defendant's MOTION to Stay re (40) Amended Complaint <i>and or Continue Action Filed Pursuant to Court's Order Requesting Government's Position</i> filed by United States of America. Replies due by 6/8/2009. Associated Cases: 9:08-cv-80119-KAM et al. ([REDACTED], [REDACTED]) (Entered: 05/29/2009)
05/29/2009	107	RESPONSE in Opposition re (90 in 9:08-cv-80119-KAM) Defendant's MOTION to Compel <i>Identify Doe in Style of Case and in Third-Party Subpoenas</i> , (91 in 9:08-cv-80119-KAM) Defendant's MOTION to Compel

		<i>Identity of Doe in Style of Case and Third-Party Subpoenas (replaces Docket entry 90)</i> filed by Jane Doe No. 102, Jane Doe No. 101. Associated Cases: 9:08-cv-80119-KAM et al.(Ezell, Katherine) (Entered: 05/29/2009)
05/29/2009	108	ORDER STRIKING (124 in 9:08-cv-80119-KAM, 105 in 9:08-cv-80811-KAM, 74 in 9:08-cv-80993-KAM, 72 in 9:08-cv-80893-KAM, 106 in 9:08-cv-80232-KAM, 123 in 9:08-cv-80380-KAM, 35 in 9:09-cv-80591-KAM, 25 in 9:09-cv-80469-KAM, 60 in 9:08-cv-80994-KAM, 22 in 9:09-cv-80656-KAM, 107 in 9:08-cv-80381-KAM) Response in Opposition to Motion, filed by Jane Doe No. 102, Jane Doe No. 101 DO NOT FILE IN EVERY EPSTEIN CASE. SEE ORDER CONSOLIDATING CASES.. Signed by Judge Kenneth A. Marra on 5/29/2009. Associated Cases: 9:08-cv-80119-KAM et al. (lc3) (Entered: 05/29/2009)
05/29/2009	<u>109</u>	MOTION for Leave to File <i>UNDER SEAL RESPONSE IN OPPOSITION TO DEFENDANTS MOTION TO STAY OR, IN THE ALTERNATIVE, TO UNSEAL THE NONPROSECUTION AGREEMENT</i> by Jane Doe No. 102, Jane Doe No. 101. Associated Cases: 9:08-cv-80119-KAM et al.(Ezell, Katherine) (Entered: 05/29/2009)
05/29/2009	<u>110</u>	MOTION for Hearing <i>MOTION TO RESCHEDULE HEARING</i> by Jane Doe No. 102, Jane Doe No. 101. Associated Cases: 9:08-cv-80119-KAM et al. (Josefsberg, Robert) (Entered: 05/29/2009)
06/01/2009	111	ORDER STRIKING (28 in 9:09-cv-80469-KAM, 126 in 9:08-cv-80380-KAM, 109 in 9:08-cv-80232-KAM, 25 in 9:09-cv-80656-KAM, 77 in 9:08-cv-80993-KAM, 38 in 9:09-cv-80591-KAM, 110 in 9:08-cv-80381-KAM, 63 in 9:08-cv-80994-KAM, 75 in 9:08-cv-80893-KAM, 108 in 9:08-cv-80811-KAM) Motion to Continue Hearing filed by Jane Doe No. 102, Jane Doe No. 101, (76 in 9:08-cv-80993-KAM, 109 in 9:08-cv-80381-KAM, 108 in 9:08-cv-80232-KAM, 62 in 9:08-cv-80994-KAM, 125 in 9:08-cv-80380-KAM, 74 in 9:08-cv-80893-KAM, 24 in 9:09-cv-80656-KAM, 37 in 9:09-cv-80591-KAM, 107 in 9:08-cv-80811-KAM, 27 in 9:09-cv-80469-KAM) Motion for Leave to File, filed by Jane Doe No. 102, Jane Doe No. 101. THESE DOCUMENTS SHOULD BE FILED ONLY IN 08-80119. SEE CASE MANAGEMENT ORDER.. Signed by Judge Kenneth A. Marra on 6/1/2009. (lc3) (Entered: 06/01/2009)
06/01/2009		Reset Scheduling Order Deadlines: Calendar Call set for 5/28/2010 10:00 AM in West Palm Beach Division before Judge Kenneth A. Marra., Jury Trial set for 6/1/2010 09:00 AM in West Palm Beach Division before Judge Kenneth A. Marra., Discovery due by 12/11/2009., Dispositive Motions due by 1/8/2010. (ir) (Entered: 06/01/2009)
06/04/2009	<u>112</u>	REPLY to Response to Motion re (113 in 9:08-cv-80119-KAM) Plaintiff's MOTION <i>Plaintiffs Jane Doe No. 101 and Jane Doe 102's Motion for No-Contact Order Plaintiffs Jane Doe No. 101 and Jane Doe No. 102's Reply to Defendant Jeffrey Epstein's Response to Plaintiffs Jane Doe No. 101 and Jane Doe No. 102's Motion for a No-Contact Order</i> filed by Jane Doe No. 101, Jane Doe No. 102. Associated Cases: 9:08-cv-80119-KAM et al.(Ezell, Katherine) (Entered: 06/04/2009)

06/04/2009	113	ORDER STRIKING (112 in 9:08-cv-80381-KAM, 111 in 9:08-cv-80232-KAM, 136 in 9:08-cv-80119-KAM, 111 in 9:08-cv-80811-KAM, 128 in 9:08-cv-80380-KAM, 65 in 9:08-cv-80994-KAM, 79 in 9:08-cv-80893-KAM, 42 in 9:09-cv-80591-KAM, 27 in 9:09-cv-80656-KAM, 32 in 9:09-cv-80469-KAM, 79 in 9:08-cv-80993-KAM) Reply to Response to Motion, filed by Jane Doe No. 102, Jane Doe No. 101 Document stricken for failure to follow Court's orders. DO NOT FILE A DOCUMENT IN EVERY EPSTEIN CASE if it is to be filed only in 08-80119. See Case Management Order and contact CM/ECF Support for assistance in proper filing.. Signed by Judge Kenneth A. Marra on 6/4/2009. Associated Cases: 9:08-cv-80119-KAM et al. (lc3) (Entered: 06/04/2009)
06/08/2009	114	RESPONSE to Motion re (91 in 9:08-cv-80119-KAM) Defendant's MOTION to Compel <i>Identity of Doe in Style of Case and Third-Party Subpoenas (replaces Docket entry 90)</i> filed by Jane Doe. Replies due by 6/18/2009. (Attachments: # 1 Exhibit A, # 2 Exhibit B)Associated Cases: 9:08-cv-80119-KAM et al.(Horowitz, Adam) (Entered: 06/08/2009)
06/08/2009	115	NOTICE by Jane Doe re (113 in 9:08-cv-80119-KAM) Plaintiff's MOTION <i>Plaintiffs Jane Doe No. 101 and Jane Doe 102's Motion for No-Contact Order -Plaintiffs Jane Does 2-7 Notice of Joinder</i> Associated Cases: 9:08-cv-80119-KAM et al.(Horowitz, Adam) (Entered: 06/08/2009)
06/09/2009	116	Unopposed MOTION to Amend/Correct <u>71</u> Answer to Amended Complaint by Jeffrey Epstein. Responses due by 6/26/2009 (Attachments: # 1 Exhibit "A", # 2 Exhibit "B", # 3 Text of Proposed Order Order)(Pike, Michael) (Entered: 06/09/2009)

PACER Service Center			
Transaction Receipt			
06/09/2009 16:46:09			
PACER Login:	du4480	Client Code:	
Description:	Docket Report	Search Criteria:	9:08-cv-80381-KAM
Billable Pages:	10	Cost:	0.80

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80381-MARRA-JOHNSON

JANE DOE NO. 5

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT'S, EPSTEIN, MOTION TO DISMISS AND MOTION FOR MORE
DEFINITE STATEMENT DIRECTED TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant, JEFFERY EPSTEIN, by and through his undersigned counsel, moves to dismiss and for more definite statement of Plaintiff JANE DOE NO. 5's Amended Complaint. Rules 12(b)(6), and 12(e) and (f), Fed.R.Civ.P. (2008). In support of his motion, Defendant states:

Introduction

Defendant is filing similar motions to dismiss and for more definite statement directed to the Amended Complaints filed against Defendant in this Court in JANE DOE NO. 2, JANE DOE NO. 3, JANE DOE NO. 4 and JANE DOE NO. 5. The motions are directed to the Counts for "Sexual Assault and Battery," and "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422" in each of the respective complaints. However, there are distinctions in the four motions filed based on the complaint allegations. For example, Defendant challenges the Plaintiffs' allegations as to assault in all four actions, and challenges the battery allegations in JANE DOE NOS. 2 and 3, but not in JANE DOE NOS. 4 and 5. Defendant moves to dismiss the §2422 count in all four actions.

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Motion

1. Counts I and III of the Amended Complaint are required to be dismissed for failure to state a claim upon which relief can be granted. Rule 12(b)(6). Plaintiff has failed to allege sufficient factual allegations in the Counts and instead alleges labels and conclusions, and an attempted formulaic recitation of the elements in each Count.

2. In the alternative, Defendant seeks more definite statement of Count I and III. In Count I, the Plaintiff is required to more definitely allege in the context of the claim for assault underlying factual allegations pertaining to the creation in Plaintiff of "imminent fear of peril;"; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff. In Count III, Plaintiff is required to more definitely state the underlying factual allegations to support her claim as set forth in the statute, 18 [REDACTED], §2422(b) and §2455. Rule 12(e). See discussion of law below herein.

3. Also, Plaintiff's reference in Count III to 28 [REDACTED], §2255, pertaining to habeas corpus proceedings is required to be stricken as immaterial. Rule 12(f). Plaintiff is required to more definitely state what statutory provision she is relying on. Rule 12 (e).

WHEREFORE, Defendant respectfully requests that this Court dismiss Counts I and III, strike the immaterial statutory reference, and require Plaintiff to more definitely plead the underlying elements of her claims.

Supporting Memorandum of Law
Standard on Rule 12(b)(6) Motion To Dismiss

As established by the Supreme Court in Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955 (2007), a motion to dismiss should be granted if the plaintiff does not plead "enough facts to state a claim to relief that is plausible on its face." *Id.*, at 1974. Although the complaint need not provide detailed factual allegations, the basis for relief

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in the complaint must state "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.*, at 1965. Further, "[f]actual allegations must be enough to raise a right to relief above the speculative level ... on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Id.* On a motion to dismiss, the well pleaded allegations of plaintiff's complaint are taken as true and construed in the light most favorable to the plaintiff. DeKalb County Sch. Dist., 446 F.3d 1153, 1156 (11th Cir.2006).

Significantly, the Supreme Court in Bell Atlantic Corp. Twombly abrogated the often cited observation that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove not set of facts in support of his claim that would entitle him to relief." *Id.*, (abrogating and quoting Conley Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 102, 2 L.Ed.2d 80 (1957)). The Supreme Court rejected the notion that "a wholly conclusory statement of claim [can] survive a motion to dismiss whenever the pleadings le[ave] open the possibility that a plaintiff might later establish some 'set of [undisclosed] facts' to support recovery." *Id.* As explained by the Supreme Court in Bell Atlantic Corp., *supra* at 1664-65:

While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, *ibid.*; Sanjuan American Bd. of Psychiatry and Neurology, Inc., 40 F.3d 247, 251 (1994), a plaintiff's obligation to provide the "grounds" of his "entitle[ment] to relief" requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do, see Papasan Allain, 478 U.S. 265, 286, 106 S.Ct. 2932, 92 L.Ed.2d 209 (1986) (on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation"). Factual allegations must be enough to raise a right to relief above the speculative level, see 5 Wright & A. Miller, Federal Practice and Procedure § 1216, pp. 235-236 (3d ed.2004) (hereinafter Wright & Miller) ("[T]he pleading must contain something more ... than ... a statement of facts that merely creates a suspicion [of] a legally cognizable right of action"), on the assumption that all the allegations in the complaint are true (even if

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doubtful in fact), see, e.g., Swierkiewicz v. Sorema N. A., 534 U.S. 506, 508, n. 1, 122 S.Ct. 992, 152 L.Ed.2d 1 (2002); Neitzke v. Williams, 490 U.S. 319, 327, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989) (" Rule 12(b)(6) does not countenance ... dismissals based on a judge's disbelief of a complaint's factual allegations"); Scheuer v. Rhodes, 416 U.S. 232, 236, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974) (a well-pleaded complaint may proceed even if it appears "that a recovery is very remote and unlikely").

Pursuant to Rule 12(e), a party may move for more definite statement of a pleading to which a responsive pleading is allowed where the pleading "is so vague or ambiguous that the party cannot reasonably frame a response." The motion is required to point out the defects and the desired details. Id.

Count I – "Sexual Assault and Battery" is subject to dismissal as Plaintiff has failed to state a claim upon which relief can be granted.

It is well settled that this Court is to apply Florida substantive law in this action. Erie R.Co. v. Tompkins, 58 S.Ct. 817 (1938). Pursuant to Florida law, although the term "assault and battery" is most commonly referred to as if it were a legal unit, or a single concept, "assault and battery are separate and distinct legal concepts, assault being the beginning of an act which, if consummated, constitutes battery." 3A Fla.Jur.2d Assault §1. An assault and battery are intentional acts. See generally, Spivey v. Battaglia, 258 So.2d 815 (Fla. 1972); and Travelers Indem. Co. v. PCR, Inc., 889 So.2d 779 (Fla. 2004).

An "assault" is an intentional, unlawful offer of corporal injury to another by force, or exertion of force directed toward another under such circumstances as to create a reasonable fear of imminent peril. See Lay v. Kremer, 411 So.2d 1347 (Fla. 1st DCA 1982). It must be premised upon an affirmative act - a threat to use force, or the actual exertion of force. See 3A Fla.Jur.2d Assault §1("The essential element of the tort of assault is the violence offered, and not actual physical contact.").

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As further explained in Florida Jurisprudence, 2d, Assault §1 –

An assault is defined as an intentional unlawful offer of corporal injury to another by force, or force unlawfully directed toward the person of another, **under circumstances as to create a fear of imminent peril**, coupled with the apparent present ability to effectuate the attempt. At common law, a tortious assault is an act that puts another in reasonable apprehension of immediate bodily harm.

In ¶12 of her Amended Complaint, Plaintiff does plead the requisite "touching" element of "battery," so that aspect of the assault and battery claim is not being challenged. With the standard of pleading established in Twombly, supra, in the context of assault, Plaintiff has failed to state a claim upon which relief can be granted. Rule 12(b)(6). As to the elements of assault, there are no factual allegations as to what was said or done to Plaintiff such that it constituted an "intentional, unlawful offer of corporal injury to another by force, or exertion of force directed toward another under such circumstances as to create a reasonable fear of imminent peril." See ¶12-13 of Am. Comp. In ¶13 alleges that JANE DOE NO. 5 (and another unidentified girl) "were then able to get dressed, leave the room and go back downstairs. Epstein gave both girls money for this 'massage.'" Allegations as to circumstances creating a fear of imminent peril are lacking.

Under applicable law, Plaintiff is required to give more than labels and conclusions, and a formulaic recitation of the elements of a cause of action. Twombly, supra. Plaintiff is required to allege the facts of what was done to her; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff.

As noted in the introduction and as this Court is well aware, there is more than one action brought against this Defendant attempting to allege similar sounding claims. With all due respect, the details as to a particular claim asserted by a particular Plaintiff

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are important to give this Defendant fair notice of Plaintiff's claim so he may properly respond. Accordingly, under applicable law, Plaintiff has failed to state a claim for "sexual assault and battery" has Plaintiff has failed to plead requisite factual allegations concerning the assault.

In the alternative to dismissing Count I, Defendant requests that Plaintiff be required to give more definite statement as to what was done to her; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff; in pleading the elements of assault. Rule 12(e).

Count III – "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422" - is subject to dismissal as Plaintiff has failed to state a claim upon which relief can be granted. Rule 12(b)(6). Count III also contains an immaterial reference to 28 [REDACTED] §2255, which is required to be stricken and more definitely stated.

Count III of Plaintiff's Complaint attempts to assert a claim for "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422." In her prayer for relief in Count III, Plaintiff "demands judgment against Defendant Jeffrey Epstein for all damages available under 28 [REDACTED] §2255(a),"

Although the reference to "28 [REDACTED] §2255," pertaining to habeas corpus proceedings – federal custody and remedies on motion attacking sentence, is probably a typographical error by Plaintiff, and the reference to "28" was meant to be "18," Defendant requests that Plaintiff correct this error so that Defendant may have fair notice of the claim Plaintiff is attempting to assert. Whether or not the "28" is typographical error, Defendant is still entitled to dismissal of the count.

The applicable version of these statutory provisions, (pre-2006 Amendments, as the Amended Complaint alleges a time period of "in or about 2002-2003," ¶18), provides:

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**CHAPTER 117--TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY
AND RELATED CRIMES**

§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.¹

**CHAPTER 110--SEXUAL EXPLOITATION AND OTHER ABUSE OF
CHILDREN**

§ 2255. Civil remedy for personal injuries

(a) Any minor who is a victim of a violation of section 2241, 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in

¹ The above-quoted version of 18 [REDACTED]. §2422 is the post-2003 amendments which amended the statute as follows:

2003 Amendments. Subsec. (a). Pub.L. 108-21, § 103(a)(2)(A), struck out "10" and inserted "20".

Subsec. (b). Pub.L. 108-21, § 103(a)(2)(B), struck out "15" and inserted "30".
Pub.L. 108-21, § 103(b)(2)(A)(i), struck out ", imprisoned" and inserted "and imprisoned not less than 5 years and".

Pub.L. 108-21, § 103(b)(2)(A)(ii), struck out ", or both" at end of subsec. (b).

Defendant is not waiving his right to claim that the pre-2003 amended version of the statute is applicable in this action. However, for purposes of this motion, the relevant statutory language is the same.

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the case of a person under a legal disability, not later than three years after the disability.

Relevant to Plaintiff's complaint, 18 [REDACTED] § 2255(a) creates a civil remedy for "a minor who is a victim of a violation of section ... 2422 ... of this title and who suffers personal injury as a result of such violation" Plaintiff has failed to plead any factual allegations whatsoever pertaining to violations of 18 [REDACTED] § 2422. Rather, Plaintiff has alleged conclusory allegations simply attempting to track parts of the statutory language in the statute without underlying factual allegations pertaining to the Plaintiff and any conduct by Defendant. See ¶29 of Am. Comp. Plaintiff's allegations, (or lack of factual allegations), are precisely what the standard set forth by the Supreme Court in Bell Atlantic Corp. prohibits – Plaintiff's complaint alleges only "labels and conclusions, and a (partial) formulaic recitation of the elements."

First, the Amended Complaint fails to designate whether Plaintiff is relying on §2422(a) or §2422(b). Second, although the complaint does contain a partial tracking of the language in 18 [REDACTED] §2422(b), it contains absolutely no factual allegations concerning the requisite "using the mail or any facility or means of interstate or foreign commerce" by Plaintiff to state a cause of action based on a violation of 18 [REDACTED] § 2422(b). As well, there are no underlying factual allegations involving this Plaintiff as to the requisite elements that a defendant *knowingly persuaded, induced, enticed, or coerced any individual (Plaintiff in this case) who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempted to do so.* See 18 [REDACTED] § 2422(b); i.e. with what criminal offense could Plaintiff and Defendant have been charged. Again, a Plaintiff cannot simply track the language of a statute without some underlying factual allegations to

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state a claim upon which relief can be granted. Accordingly, Count III is required to be dismissed, and the reference to 28 USC 2455 be stricken.

In the alternative, Plaintiff should be required to more definitely state the underlying factual allegations to support her claim as set forth in the statute, 18 [REDACTED] §2422(b) and §2455.

Conclusion

As discussed above herein, under the pleading standard established in Twombly, supra, and law concerning the elements of Count I and III, Plaintiff has failed to state claims upon which relief can be granted. Rule 12(b)(6). Plaintiff's complaint lack underlying factual allegations and, thus, Plaintiff is required to more definitely state the requisite factual allegations. Finally, Plaintiff should correct any improper statutory references.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed 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 identified on the following Service List in the manner specified by CM/ECF on this 6th day of October, 2008:

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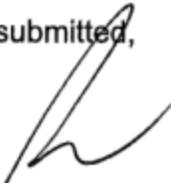
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80381-CIV-MARRA/JOHNSON

JANE DOE NO. 5,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

SECOND AMENDED COMPLAINT

Plaintiff, Jane Doe No. 5 ("Jane" or "Jane Doe"), brings this Complaint against Jeffrey Epstein, as follows:

Parties, Jurisdiction and Venue

1. Jane Doe No. 5 is a citizen and resident of the Commonwealth of Virginia, and is sui juris.
2. This Complaint is brought under a fictitious name to protect the identity of the Plaintiff because this Complaint makes sensitive allegations of sexual assault and abuse upon a minor.
3. Defendant Jeffrey Epstein is a citizen and resident of the State of New York.
4. This is an action for damages in excess of \$50 million.
5. This Court has jurisdiction of this action and the claims set forth herein pursuant to 28 ██████████ §1332(a), as the matter in controversy (i) exceeds \$75,000, exclusive of interest and costs; and (ii) is between citizens of different states.
6. This Court has venue of this action pursuant to 28 ██████████ §1391(a) as a substantial

part of the events or omissions giving rise to the claim occurred in this District.

Factual Allegations

7. At all relevant times, Defendant Jeffrey Epstein ("Epstein") was an adult male, 52 years old. Epstein is a financier and money manager with a secret clientele limited exclusively to billionaires. He is himself a man of tremendous wealth, power and influence. He maintains his principal home in New York and also owns residences in New Mexico, St. Thomas and Palm Beach, FL. The allegations herein concern Epstein's conduct while at his lavish estate in Palm Beach.

8. Upon information and belief, Epstein has a sexual preference and obsession for underage girls. He engaged in a plan and scheme in which he gained access to primarily economically disadvantaged minor girls in his home, sexually assaulted these girls, and then gave them money. In or about 2002-2003, Jane Doe, then approximately 15-16 years old, fell into Epstein's trap and became one of his victims.

9. Upon information and belief, Jeffrey Epstein carried out his scheme and assaulted girls in Florida, New York and on his private island, known as Little St. James, in St. Thomas.

10. Epstein's scheme involved the use of young girls to recruit underage girls. These underage girls were recruited ostensibly to give a wealthy man a massage for monetary compensation in his Palm Beach mansion. The girls would be contacted when Epstein was planning to be at his Palm Beach residence or soon after he had arrived there. Upon information and belief, Epstein generally sought out economically disadvantaged underage girls from western Palm Beach County who would be enticed by the money being offered - generally \$200 to \$300 per "massage" session - and who were perceived as less likely to complain to authorities or have credibility if allegations of improper conduct were made. This was an important element of Epstein's plan.

11. Epstein's plan and scheme reflected a particular pattern and method. The underage

victim would be brought to the kitchen entrance of Epstein's mansion, where she would be introduced to [REDACTED], Epstein's assistant. Ms. [REDACTED] would then bring the girl up a flight of stairs to a room that contained a massage table in addition to other furnishings, and a bathroom. The girl would then find herself alone in the room with Epstein, who would be wearing only a towel. He would then remove his towel and lie naked on the massage table, and direct the girl to remove her clothes. Epstein would then perform one or more lewd, lascivious and sexual acts, including masturbation at [REDACTED].

12. Consistent with the foregoing plan and scheme, when Jane Doe was approximately 15-16 years old, she was recruited to give Epstein a massage for monetary compensation. Jane and another girl were brought to Epstein's mansion in Palm Beach, to the kitchen entrance. Once there, they were introduced to [REDACTED], who led them up the flight of stairs to the room with the massage table. Jane and the other girl were directed by Epstein to remove their clothes and give him a massage. Jane and the other girl removed their clothes except for their panties and bras, and complied with Epstein's instructions. While on the massage table, [REDACTED] himself and touched both girls on their [REDACTED] and [REDACTED].

13. After Epstein had completed the sexual assault, both girls were then able to get dressed, leave the room and go back down the stairs. Epstein gave both girls money for this "massage."

14. As a result of this encounter with Epstein, Jane experienced confusion, shame, humiliation and embarrassment, and has suffered severe psychological and emotional injuries.

COUNT I
Sexual Assault and Battery

15. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

16. Epstein acted with intent to cause an offensive contact with Jane Doe, or an imminent apprehension of such a contact, and Jane Doe was thereby put in such imminent apprehension.

17. Epstein made an intentional, unlawful offer of offensive sexual contact toward Jane Doe, creating a reasonable fear of imminent peril.

18. Epstein intentionally inflicted harmful or offensive contact on the person of Jane Doe, with the intent to cause such contact or the apprehension that such contact is imminent.

19. Epstein tortiously committed a sexual assault and battery on Jane Doe. Epstein's acts were intentional, unlawful, offensive and harmful.

20. Epstein's plan and scheme in which he committed such acts upon Jane Doe were done willfully and maliciously.

21. As a direct and proximate result of Epstein's assault on Jane, she has suffered and will continue to suffer severe and permanent traumatic injuries, including mental, psychological and emotional damages.

WHEREFORE, Plaintiff Jane Doe No. 4 demands judgment against Defendant Jeffrey Epstein for compensatory damages, punitive damages, costs, and such other and further relief as this Court deems just and proper.

COUNT II
Intentional Infliction of Emotional Distress

22. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

23. Epstein's conduct was intentional or reckless.

24. Epstein's conduct with a minor was extreme and outrageous, going beyond all bounds of decency.

25. Epstein committed willful acts of child sexual abuse on Jane Doe. These acts resulted in mental or sexual injury to Jane Doe, that caused or were likely to cause Jane Doe's mental or emotional health to be significantly impaired.

26. Epstein's conduct caused severe emotional distress to Jane Doe. Epstein knew or had reason to know that his intentional and outrageous conduct would cause emotional distress and damage to Jane Doe, or Epstein acted with reckless disregard of the high probability of causing severe emotional distress to Jane Doe.

27. As a direct and proximate result of Epstein's intentional or reckless conduct, Jane Doe, has suffered and will continue to suffer severe mental anguish and pain.

WHEREFORE, Plaintiff Jane Doe No. 5 demands judgment against Defendant Jeffrey Epstein for compensatory damages, costs, punitive damages, and such other and further relief as this Court deems just and proper.

COUNT III

Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED]. §2422

28. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

29. Epstein used a facility or means of interstate commerce to knowingly persuade, induce or entice Jane Doe, when she was under the age of 18 years, to engage in prostitution or sexual activity for which any person can be charged with a criminal offense.

30. On June 30, 2008, Epstein entered a plea of guilty to violations of Florida §§ 796.07 and 796.03, in the 15th Judicial Circuit in and for Palm Beach County (Case nos. 2008-cf-009381AXXXMB and 2006-cf-009454AXXXMB), for conduct involving the same plan and scheme as alleged herein.

31. As to Plaintiff Jane Doe, Epstein could have been charged with criminal violations of

Florida Statute §796.07(2) (including subsections (b), (d), (e), (f), (g), and (h) thereof), and other criminal offenses including violations of Florida Statutes §§ 798.02 and 800.04 (including subsections (5), (6) and (7) thereof).

32. Epstein's acts and conduct are in violation of 18 [REDACTED], §2422.

33. As a result of Epstein's violation of 18 [REDACTED], §2422, Plaintiff has suffered personal injury, including mental, psychological and emotional damages.

34. Plaintiff hired Herman & Mermelstein, P.A., in this matter and agreed to pay them a reasonable attorneys' fee.

WHEREFORE, Plaintiff Jane Doe No. 5 demands judgment against Defendant Jeffrey Epstein for all damages available under 18 [REDACTED], §2255(a), including without limitation, actual and compensatory damages, costs of suit, and attorneys' fees, and such other and further relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a jury trial in this action on all claims so triable.

Dated: February 27, 2009

Respectfully submitted,

By: s/ Adam D. Horowitz
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[REDACTED]
Adam D. Horowitz (FL Bar No. 376980)
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CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2009, 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 to all parties 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 parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Adam D. Horowitz

SERVICE LIST
DOE vs. JEFFREY EPSTEIN
United States District Court, Southern District of Florida

Jack Alan Goldberger, Esq.
[REDACTED]

Robert D. Critton, Esq.
[REDACTED]

/s/ Adam D. Horowitz

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80381-MARRA-JOHNSON

JANE DOE NO. 5

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT EPSTEIN'S ANSWER & AFFIRMATIVE
DEFENSES TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

Defendant, JEFFREY EPSTEIN, (hereinafter "EPSTEIN"), by and through his undersigned attorneys, files his Answer to the Second Amended Complaint and states:

1. Without knowledge and deny.

2. As to the allegations in paragraphs 2, Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 Effect of Failure to Deny – Privilege Against Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. Defendants in civil actions. – "... a civil defendant who raises an affirmative defense is not precluded from asserting

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the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

3. As to the allegations in paragraph 3, deny.

4. As to the allegations in paragraph 4, deny.

5. As to the allegations in paragraph 5, without knowledge and deny.

6. As to the allegations in paragraphs 6, Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v Hogan, 401 U.S. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 Effect of Failure to Deny – Privilege Against Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. Defendants in civil actions. – "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

7. As to the allegations in paragraphs 7 through 14 of Plaintiff's Second Amended Complaint, Defendant exercises his Fifth Amendment Privilege against self-

Jane Doe No. 5 [REDACTED] Epstein
Page 3

incrimination. See DeLisi [REDACTED]. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy [REDACTED]. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

8. In response to the allegations of paragraph 15, Defendant realleges and adopts his responses to paragraphs 1 through 14 of the Second Amended Complaint set forth in paragraphs 1 through 6 above herein.

9. Defendant asserts the Fifth Amendment Privilege against self-incrimination to the allegations set forth in paragraphs 16 through 21 of the Second Amended Complaint. See DeLisi [REDACTED]. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy [REDACTED]. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the

Jane Doe No. 5 v Epstein
Page 4

validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 Effect of Failure to Deny – Privilege Against Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. Defendants in civil actions. – "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

10. In response to the allegations of paragraph 22, Defendant realleges and adopts his responses to paragraphs 1 through 14 of the Second Amended Complaint set forth in paragraphs 1 through 6 above herein.

11. Defendant asserts the Fifth Amendment Privilege against self-incrimination to the allegations set forth in paragraphs 23 through 27 of the Second Amended Complaint. See DeLisi v Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 Effect of Failure to Deny – Privilege Against Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24

Jane Doe No. 5 v Epstein
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Fla.Jur.2d Evidence §592. Defendants in civil actions. – "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

12. In response to the allegations of paragraph 28, Defendant realleges and adopts his responses to paragraphs 1 through 14 of the Second Amended Complaint set forth in paragraphs 1 through 6 above herein.

13. Defendant asserts the Fifth Amendment Privilege against self-incrimination to the allegations set forth in paragraphs 29 through 34 of the Second Amended Complaint. See DeLisi v Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 Effect of Failure to Deny – Privilege Against Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. Defendants in civil actions. – "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary

Jane Doe No. 5 v Epstein
Page 6

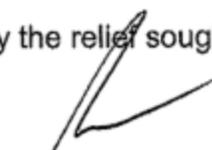
application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

WHEREFORE, Defendant requests that this Court deny the relief sought by Plaintiff.

Affirmative Defenses

1. As to all counts, Plaintiff consented to and was a willing participant in the acts alleged.
2. As to all counts alleged, Plaintiff consented to and participated in conduct similar and/or identical to the acts alleged with other persons which were the sole or contributing cause of Plaintiff's alleged damages
3. As to all counts, Defendant reasonably believed that the Plaintiff had attained the age of 18 years old at the time of the alleged acts.
4. Plaintiff's claims are barred by the applicable statute of limitations.

WHEREFORE Defendant requests that this Court deny the relief sought by Plaintiff.



Robert D. Critton, Jr.
Attorney for Defendant Epstein

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed 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 identified on the following Service List in the manner specified by CM/ECF on this 2nd day of April, 2009:

Jane Doe No. 5 Epstein
Page 7

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80381-MARRA-JOHNSON

JANE DOE NO. 5

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT'S, EPSTEIN, MOTION TO DISMISS AND MOTION FOR MORE
DEFINITE STATEMENT DIRECTED TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant, JEFFERY EPSTEIN, by and through his undersigned counsel, moves to dismiss and for more definite statement of Plaintiff JANE DOE NO. 5's Amended Complaint. Rules 12(b)(6), and 12(e) and (f), Fed.R.Civ.P. (2008). In support of his motion, Defendant states:

Introduction

Defendant is filing similar motions to dismiss and for more definite statement directed to the Amended Complaints filed against Defendant in this Court in JANE DOE NO. 2, JANE DOE NO. 3, JANE DOE NO. 4 and JANE DOE NO. 5. The motions are directed to the Counts for "Sexual Assault and Battery," and "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422" in each of the respective complaints. However, there are distinctions in the four motions filed based on the complaint allegations. For example, Defendant challenges the Plaintiffs' allegations as to assault in all four actions, and challenges the battery allegations in JANE DOE NOS. 2 and 3, but not in JANE DOE NOS. 4 and 5. Defendant moves to dismiss the §2422 count in all four actions.

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Motion

1. Counts I and III of the Amended Complaint are required to be dismissed for failure to state a claim upon which relief can be granted. Rule 12(b)(6). Plaintiff has failed to allege sufficient factual allegations in the Counts and instead alleges labels and conclusions, and an attempted formulaic recitation of the elements in each Count.

2. In the alternative, Defendant seeks more definite statement of Count I and III. In Count I, the Plaintiff is required to more definitely allege in the context of the claim for assault underlying factual allegations pertaining to the creation in Plaintiff of "imminent fear of peril;"; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff. In Count III, Plaintiff is required to more definitely state the underlying factual allegations to support her claim as set forth in the statute, 18 [REDACTED] §2422(b) and §2455. Rule 12(e). See discussion of law below herein.

3. Also, Plaintiff's reference in Count III to 28 [REDACTED] §2255, pertaining to habeas corpus proceedings is required to be stricken as immaterial. Rule 12(f). Plaintiff is required to more definitely state what statutory provision she is relying on. Rule 12 (e).

WHEREFORE, Defendant respectfully requests that this Court dismiss Counts I and III, strike the immaterial statutory reference, and require Plaintiff to more definitely plead the underlying elements of her claims.

**Supporting Memorandum of Law
Standard on Rule 12(b)(6) Motion To Dismiss**

As established by the Supreme Court in Bell Atlantic Corp. [REDACTED] Twombly, 127 S.Ct. 1955 (2007), a motion to dismiss should be granted if the plaintiff does not plead "enough facts to state a claim to relief that is plausible on its face." *Id.*, at 1974. Although the complaint need not provide detailed factual allegations, the basis for relief

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in the complaint must state "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.*, at 1965. Further, "[f]actual allegations must be enough to raise a right to relief above the speculative level ... on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Id.* On a motion to dismiss, the well pleaded allegations of plaintiff's complaint are taken as true and construed in the light most favorable to the plaintiff. ██████████ v. DeKalb County Sch. Dist., 446 F.3d 1153, 1156 (11th Cir.2006).

Significantly, the Supreme Court in Bell Atlantic Corp. v. Twombly abrogated the often cited observation that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove not set of facts in support of his claim that would entitle him to relief." *Id.* (abrogating and quoting Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 102, 2 L.Ed.2d 80 (1957)). The Supreme Court rejected the notion that "a wholly conclusory statement of claim [can] survive a motion to dismiss whenever the pleadings le[ave] open the possibility that a plaintiff might later establish some 'set of [undisclosed] facts' to support recovery." *Id.* As explained by the Supreme Court in Bell Atlantic Corp., *supra* at 1664-65:

While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, *ibid.*; Sanjuan v. American Bd. of Psychiatry and Neurology, Inc., 40 F.3d 247, 251 (██████████, 7 1994), a plaintiff's obligation to provide the "grounds" of his "entitle[ment] to relief" requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do, see Papasan v. Allain, 478 U.S. 265, 286, 106 S.Ct. 2932, 92 L.Ed.2d 209 (1986) (on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation"). Factual allegations must be enough to raise a right to relief above the speculative level, see 5 Wright & A. Miller, Federal Practice and Procedure § 1216, pp. 235-236 (3d ed.2004) (hereinafter Wright & Miller) ("[T]he pleading must contain something more ... than ... a statement of facts that merely creates a suspicion [of] a legally cognizable right of action"), on the assumption that all the allegations in the complaint are true (even if

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doubtful in fact), see, e.g., Swierkiewicz v. Sorema N. A., 534 U.S. 506, 508, n. 1, 122 S.Ct. 992, 152 L.Ed.2d 1 (2002); Neitzke v. Williams, 490 U.S. 319, 327, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989) ("Rule 12(b)(6) does not countenance ... dismissals based on a judge's disbelief of a complaint's factual allegations"); Scheuer v. Rhodes, 416 U.S. 232, 236, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974) (a well-pleaded complaint may proceed even if it appears "that a recovery is very remote and unlikely").

Pursuant to Rule 12(e), a party may move for more definite statement of a pleading to which a responsive pleading is allowed where the pleading "is so vague or ambiguous that the party cannot reasonably frame a response." The motion is required to point out the defects and the desired details. Id.

Count I – "Sexual Assault and Battery" is subject to dismissal as Plaintiff has failed to state a claim upon which relief can be granted.

It is well settled that this Court is to apply Florida substantive law in this action. Erie R.Co. v. Tompkins, 58 S.Ct. 817 (1938). Pursuant to Florida law, although the term "assault and battery" is most commonly referred to as if it were a legal unit, or a single concept, "assault and battery are separate and distinct legal concepts, assault being the beginning of an act which, if consummated, constitutes battery." 3A Fla.Jur.2d Assault §1. An assault and battery are intentional acts. See generally, Spivey v. Battaglia, 258 So.2d 815 (Fla. 1972); and Travelers Indem. Co. v. PCR, Inc., 889 So.2d 779 (Fla. 2004).

An "assault" is an intentional, unlawful offer of corporal injury to another by force, or exertion of force directed toward another under such circumstances as to create a reasonable fear of imminent peril. See Lay v. Kremer, 411 So.2d 1347 (Fla. 1st DCA 1982). It must be premised upon an affirmative act - a threat to use force, or the actual exertion of force. See 3A Fla.Jur.2d Assault §1("The essential element of the tort of assault is the violence offered, and not actual physical contact.").

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As further explained in Florida Jurisprudence, 2d, Assault §1 –

An assault is defined as an intentional unlawful offer of corporal injury to another by force, or force unlawfully directed toward the person of another, **under circumstances as to create a fear of imminent peril**, coupled with the apparent present ability to effectuate the attempt. At common law, a tortious assault is an act that puts another in reasonable apprehension of immediate bodily harm.

In ¶12 of her Amended Complaint, Plaintiff does plead the requisite "touching" element of "battery," so that aspect of the assault and battery claim is not being challenged. With the standard of pleading established in Twombly, supra, in the context of assault, Plaintiff has failed to state a claim upon which relief can be granted. Rule 12(b)(6). As to the elements of assault, there are no factual allegations as to what was said or done to Plaintiff such that it constituted an "intentional, unlawful offer of corporal injury to another by force, or exertion of force directed toward another under such circumstances as to create a reasonable fear of imminent peril." See ¶12-13 of Am. Comp. In ¶13 alleges that JANE DOE NO. 5 (and another unidentified girl) "were then able to get dressed, leave the room and go back downstairs. Epstein gave both girls money for this 'massage.'" Allegations as to circumstances creating a fear of imminent peril are lacking.

Under applicable law, Plaintiff is required to give more than labels and conclusions, and a formulaic recitation of the elements of a cause of action. Twombly, supra. Plaintiff is required to allege the facts of what was done to her; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff.

As noted in the introduction and as this Court is well aware, there is more than one action brought against this Defendant attempting to allege similar sounding claims. With all due respect, the details as to a particular claim asserted by a particular Plaintiff

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are important to give this Defendant fair notice of Plaintiff's claim so he may properly respond. Accordingly, under applicable law, Plaintiff has failed to state a claim for "sexual assault and battery" has Plaintiff has failed to plead requisite factual allegations concerning the assault.

In the alternative to dismissing Count I, Defendant requests that Plaintiff be required to give more definite statement as to what was done to her; what EPSTEIN said and did, if anything, to create fear and apprehension in Plaintiff; in pleading the elements of assault. Rule 12(e).

Count III – "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422" - is subject to dismissal as Plaintiff has failed to state a claim upon which relief can be granted. Rule 12(b)(6). Count III also contains an immaterial reference to 28 [REDACTED] §2255, which is required to be stricken and more definitely stated.

Count III of Plaintiff's Complaint attempts to assert a claim for "Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED] §2422." In her prayer for relief in Count III, Plaintiff "demands judgment against Defendant Jeffrey Epstein for all damages available under 28 [REDACTED] §2255(a),"

Although the reference to "28 [REDACTED] §2255," pertaining to habeas corpus proceedings – federal custody and remedies on motion attacking sentence, is probably a typographical error by Plaintiff, and the reference to "28" was meant to be "18," Defendant requests that Plaintiff correct this error so that Defendant may have fair notice of the claim Plaintiff is attempting to assert. Whether or not the "28" is typographical error, Defendant is still entitled to dismissal of the count.

The applicable version of these statutory provisions, (pre-2006 Amendments, as the Amended Complaint alleges a time period of "in or about 2002-2003," ¶18), provides:

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**CHAPTER 117--TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY
AND RELATED CRIMES**

§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.¹

**CHAPTER 110--SEXUAL EXPLOITATION AND OTHER ABUSE OF
CHILDREN**

§ 2255. Civil remedy for personal injuries

(a) Any minor who is a victim of a violation of section 2241, 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in

¹ The above-quoted version of 18 U.S.C. §2422 is the post-2003 amendments which amended the statute as follows:

2003 Amendments. Subsec. (a). Pub.L. 108-21, § 103(a)(2)(A), struck out "10" and inserted "20".

Subsec. (b). Pub.L. 108-21, § 103(a)(2)(B), struck out "15" and inserted "30".
Pub.L. 108-21, § 103(b)(2)(A)(i), struck out ", imprisoned" and inserted "and imprisoned not less than 5 years and".

Pub.L. 108-21, § 103(b)(2)(A)(ii), struck out ", or both" at end of subsec. (b).

Defendant is not waiving his right to claim that the pre-2003 amended version of the statute is applicable in this action. However, for purposes of this motion, the relevant statutory language is the same.

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the case of a person under a legal disability, not later than three years after the disability.

Relevant to Plaintiff's complaint, 18 [REDACTED] c. 2255(a) creates a civil remedy for "a minor who is a victim of a violation of section ... 2422 ... of this title and who suffers personal injury as a result of such violation" Plaintiff has failed to plead any factual allegations whatsoever pertaining to violations of 18 [REDACTED] c. 2422. Rather, Plaintiff has alleged conclusory allegations simply attempting to track parts of the statutory language in the statute without underlying factual allegations pertaining to the Plaintiff and any conduct by Defendant. See ¶29 of Am. Comp. Plaintiff's allegations, (or lack of factual allegations), are precisely what the standard set forth by the Supreme Court in Bell Atlantic Corp. prohibits – Plaintiff's complaint alleges only "labels and conclusions, and a (partial) formulaic recitation of the elements."

First, the Amended Complaint fails to designate whether Plaintiff is relying on §2422(a) or §2422(b). Second, although the complaint does contain a partial tracking of the language in 18 [REDACTED] c. §2422(b), it contains absolutely no factual allegations concerning the requisite "using the mail or any facility or means of interstate or foreign commerce" by Plaintiff to state a cause of action based on a violation of 18 [REDACTED] c. 2422(b). As well, there are no underlying factual allegations involving this Plaintiff as to the requisite elements that a defendant *knowingly persuaded, induced, enticed, or coerced any individual (Plaintiff in this case) who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempted to do so.* See 18 [REDACTED] c. 2422(b); i.e. with what criminal offense could Plaintiff and Defendant have been charged. Again, a Plaintiff cannot simply track the language of a statute without some underlying factual allegations to

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state a claim upon which relief can be granted. Accordingly, Count III is required to be dismissed, and the reference to 28 USC 2455 be stricken.

In the alternative, Plaintiff should be required to more definitely state the underlying factual allegations to support her claim as set forth in the statute, 18 [REDACTED] §2422(b) and §2455.

Conclusion

As discussed above herein, under the pleading standard established in Twombly, supra, and law concerning the elements of Count I and III, Plaintiff has failed to state claims upon which relief can be granted. Rule 12(b)(6). Plaintiff's complaint lack underlying factual allegations and, thus, Plaintiff is required to more definitely state the requisite factual allegations. Finally, Plaintiff should correct any improper statutory references.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed 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 identified on the following Service List in the manner specified by CM/ECF on this 6th day of October, 2008:

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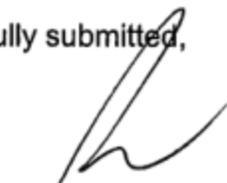
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Respectfully submitted,

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80381-CIV-MARRA/JOHNSON

JANE DOE NO. 5,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

AMENDED COMPLAINT

Plaintiff, Jane Doe No. 5 ("Jane" or "Jane Doe"), brings this Complaint against Jeffrey Epstein, as follows:

Parties, Jurisdiction and Venue

1. Jane Doe No. 5 is a citizen and resident of the Commonwealth of Virginia, and is sui juris.
2. This Complaint is brought under a fictitious name to protect the identity of the Plaintiff because this Complaint makes sensitive allegations of sexual assault and abuse upon a minor.
3. Defendant Jeffrey Epstein is a citizen and resident of the State of New York.
4. This is an action for damages in excess of \$50 million.
5. This Court has jurisdiction of this action and the claims set forth herein pursuant to 28 [REDACTED] §1332(a), as the matter in controversy (i) exceeds \$75,000, exclusive of interest and costs; and (ii) is between citizens of different states.
6. This Court has venue of this action pursuant to 28 [REDACTED] §1391(a) as a substantial

part of the events or omissions giving rise to the claim occurred in this District.

Factual Allegations

7. At all relevant times, Defendant Jeffrey Epstein (“Epstein”) was an adult male, 52 years old. Epstein is a financier and money manager with a secret clientele limited exclusively to billionaires. He is himself a man of tremendous wealth, power and influence. He maintains his principal home in New York and also owns residences in New Mexico, St. Thomas and Palm Beach, FL. The allegations herein concern Epstein’s conduct while at his lavish estate in Palm Beach.

8. Upon information and belief, Epstein has a sexual preference and obsession for underage girls. He engaged in a plan and scheme in which he gained access to primarily economically disadvantaged minor girls in his home, sexually assaulted these girls, and then gave them money. In or about 2002-2003, Jane Doe, then approximately 15-16 years old, fell into Epstein’s trap and became one of his victims.

9. Upon information and belief, Jeffrey Epstein carried out his scheme and assaulted girls in Florida, New York and on his private island, known as Little St. James, in St. Thomas.

10. Epstein’s scheme involved the use of young girls to recruit underage girls. These underage girls were recruited ostensibly to give a wealthy man a massage for monetary compensation in his Palm Beach mansion. The girls would be contacted when Epstein was planning to be at his Palm Beach residence or soon after he had arrived there. Upon information and belief, Epstein generally sought out economically disadvantaged underage girls from western Palm Beach County who would be enticed by the money being offered - generally \$200 to \$300 per “massage” session - and who were perceived as less likely to complain to authorities or have credibility if allegations of improper conduct were made. This was an important element of Epstein’s plan.

11. Epstein’s plan and scheme reflected a particular pattern and method. The underage

victim would be brought to the kitchen entrance of Epstein's mansion, where she would be introduced to [REDACTED] Epstein's assistant. Ms. [REDACTED] would then bring the girl up a flight of stairs to a room that contained a massage table in addition to other furnishings, and a bathroom. The girl would then find herself alone in the room with Epstein, who would be wearing only a towel. He would then remove his towel and lie naked on the massage table, and direct the girl to remove her clothes. Epstein would then perform one or more lewd, lascivious and sexual acts, including [REDACTED] and [REDACTED].

12. Consistent with the foregoing plan and scheme, when Jane Doe was approximately 15-16 years old, she was recruited to give Epstein a massage for monetary compensation. Jane and another girl were brought to Epstein's mansion in Palm Beach, to the kitchen entrance. Once there, they were introduced to [REDACTED] who led them up the flight of stairs to the room with the massage table. Jane and the other girl were directed by Epstein to remove their clothes and give him a massage. Jane and the other girl removed their clothes except for their panties and bras, and complied with Epstein's instructions. While on the massage table, Epstein [REDACTED] and touched both girls on their [REDACTED] and with a [REDACTED].

13. After Epstein had completed the sexual assault, both girls were then able to get dressed, leave the room and go back down the stairs. Epstein gave both girls money for this "massage."

14. As a result of this encounter with Epstein, Jane experienced confusion, shame, humiliation and embarrassment, and has suffered severe psychological and emotional injuries.

COUNT I
Sexual Assault and Battery

HERMAN & MERMELSTEIN, P. A.

15. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

16. Epstein acted with intent to cause an offensive contact with Jane Doe, or an imminent apprehension of such a contact, and Jane Doe was thereby put in such imminent apprehension.

17. Epstein made an intentional, unlawful offer of offensive sexual contact toward Jane Doe, creating a reasonable fear of imminent peril.

18. Epstein intentionally inflicted harmful or offensive contact on the person of Jane Doe, with the intent to cause such contact or the apprehension that such contact is imminent.

19. Epstein tortiously committed a sexual assault and battery on Jane Doe. Epstein's acts were intentional, unlawful, offensive and harmful.

20. Epstein's plan and scheme in which he committed such acts upon Jane Doe were done willfully and maliciously.

21. As a direct and proximate result of Epstein's assault on Jane, she has suffered and will continue to suffer severe and permanent traumatic injuries, including mental, psychological and emotional damages.

WHEREFORE, Plaintiff Jane Doe No. 4 demands judgment against Defendant Jeffrey Epstein for compensatory damages, punitive damages, costs, and such other and further relief as this Court deems just and proper.

COUNT II
Intentional Infliction of Emotional Distress

22. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

23. Epstein's conduct was intentional or reckless.

24. Epstein's conduct with a minor was extreme and outrageous, going beyond all bounds of decency.

HERMAN & MERMELSTEIN, P. A.

25. Epstein committed willful acts of child sexual abuse on Jane Doe. These acts resulted in mental or sexual injury to Jane Doe, that caused or were likely to cause Jane Doe's mental or emotional health to be significantly impaired.

26. Epstein's conduct caused severe emotional distress to Jane Doe. Epstein knew or had reason to know that his intentional and outrageous conduct would cause emotional distress and damage to Jane Doe, or Epstein acted with reckless disregard of the high probability of causing severe emotional distress to Jane Doe.

27. As a direct and proximate result of Epstein's intentional or reckless conduct, Jane Doe, has suffered and will continue to suffer severe mental anguish and pain.

WHEREFORE, Plaintiff Jane Doe No. 5 demands judgment against Defendant Jeffrey Epstein for compensatory damages, costs, punitive damages, and such other and further relief as this Court deems just and proper.

COUNT III

Coercion and Enticement to Sexual Activity in Violation of 18 [REDACTED]. §2422

28. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

29. Epstein used a facility or means of interstate commerce to knowingly persuade, induce or entice Jane Doe, when she was under the age of 18 years, to engage in prostitution or sexual activity for which any person can be charged with a criminal offense.

30. Epstein's acts and conduct are in violation of 18 [REDACTED]. §2422.

31. As a result of Epstein's violation of 18 [REDACTED]. §2422, Plaintiff has suffered personal injury, including mental, psychological and emotional damages.

32. Plaintiff hired Herman & Mermelstein, P.A., in this matter and agreed to pay them a reasonable attorneys' fee.

WHEREFORE, Plaintiff Jane Doe No. 5 demands judgment against Defendant Jeffrey Epstein for all damages available under 28 [REDACTED], §2255(a), including without limitation, actual and compensatory damages, costs of suit, and attorneys' fees, and such other and further relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a jury trial in this action on all claims so triable.

Dated: September 22, 2008

Respectfully submitted,

By: s/ Jeffrey M. Herman
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[REDACTED]
Stuart S. Mermelstein (FL Bar No. 947245)
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