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NEW YORK, NY 10021-0406

United States

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**Year Admitted in NY:** 1996

**Appellate Division**

**Department of**

**Admission:** 2

**Law School:** ST JOHNS UNIVERSITY

**Registration Status:** Due to reregister within 30 days of birthday

**Next Registration:** Jul 2008

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*Brad Edwards*

AND ASSOCIATES

July 17, 2008

[REDACTED]  
United States Attorney's Office[REDACTED]  
West Palm Beach, Florida 33401Re: Proposed Stipulated Facts for *In Re Jane Doe*

Dear [REDACTED]:

Thank you for your recent proposed stipulation of facts in this case. I believe that we have considerable common ground. At the same time, however, it appears to me that a few areas of potential disagreement are arising. In view of that, and to avoid any misunderstandings, I thought it might be useful to send a short letter outlining several requests and issues for resolution before I send you back my proposed stipulated facts.

1. I am working with two other attorneys on this case – Jay Howell in Jacksonville, Florida, and Professor Paul Cassell in Salt Lake City, Utah. Because they were not in court for the hearing last Friday, they will need to review a transcript of the hearing before our legal team can agree to any stipulated facts. I have requested a transcript, but the preparation of it will apparently take several weeks. Do you have any way of expediting the preparation of the transcript by requesting it yourself? Also, as you know, my clients are indigent. As part of the Government's responsibility to use its "best efforts to see that crime victims are . . . accorded[] the rights" in the CVRA, 18 U.S.C. § 3771(c)(1), I was wondering whether the Government would be willing to pay for the transcript.

2. Your proposed stipulation indicates that in September 2007 the U.S. Attorney's Office reached an agreement with Epstein to resolve the case, which was then modified in October and December of that year. While this seems plausible, to stipulate to the facts, I would obviously need to see copies of those three agreements. Moreover, because the circumstances surrounding the initial agreement and its later modification are now the subject of litigation, my client is entitled to see them. See 18 U.S.C. § 3771(a)(8) (victim's right to "be treated with fairness"). In addition, your proposed stipulation states that: "On July 9, 2008, [REDACTED] sent a victim notification to Jane Doe #1 via her attorney, Bradley Edwards, which is attached as Exhibit 6 to the [REDACTED] Declaration. That notification contains a written explanation of the *full terms* of the agreement between Epstein and the U.S. Attorney's Office." I am puzzled by this proposed stipulation, as your July 9 letter explicitly noted that it was covering only some of the provisions in the agreement. Perhaps the fact that I have not yet received the agreement is all just an oversight on your part, and you had intended to give me the "full terms" of the plea agreement that was ultimately reached. In any event, the simplest way to proceed at this point is for the plea agreement -- and the earlier versions -- to be provided to me so that I can review

[REDACTED] HOLLYWOOD, FLORIDA 33020  
[REDACTED]

them with my clients. Of course, no possible harm to the Government can come from the release of the documents, as this criminal matter is now concluded – at least from the Government's perspective.

3. I am wondering about your position on the confidentiality provision in the agreement. As I understand things from your proposed stipulation, in September 2007 you "reached" an agreement with Epstein's attorneys that "contained an express confidentiality provision." Are you taking the position that this "express" provision barred disclosure of the substance of the agreement to my clients? And, if so, would you stipulate that the FBI agents and your office complied with the provision up through June 30 when, I assume, the confidential provision expired as Epstein entered his guilty plea in open court?

4. Your proposed stipulation indicates:

On October 26, 2007, Special Agents [REDACTED] and [REDACTED] met in person with Jane Doe #1. The Special Agents explained that the investigation had been resolved, that Epstein would plead guilty to state charges, he would be required to register as a sex offender for life, and he had made certain concessions related to the payment of damages to the victims, including Jane Doe #1. During this meeting, Jane Doe #1 did not raise any objections to the resolution of the matter.

From the drafting of this proposed stipulation, it appears that you may be working from a Report of Interview with my client (i.e., an FBI 302). My client has a differing recollection of some aspects of that meeting. Of course, she did not take notes of the meeting. Therefore, I ask that you provide me (the relevant parts of) any report of this meeting as well as reports of any other meetings relevant to the matters at hand.

I believe that my client is entitled to a copy of (the relevant parts of) the reports of interviews with her. Of course, a criminal defendant would be entitled to such documents. *See* Fed. R. Crim. P. 16(a)(1)(A) & (B). As an innocent victim in this matter, my client should be treated with at least the same consideration. *See* 18 U.S.C. § 3771(a)(8) (victim's right to "be treated with fairness").

5. I am hoping that the Special Agents' and my client's recollections about one point of the October 26<sup>th</sup> meeting coincides: that she was never told that the agreement blocked all federal prosecution for the crimes at hand. Is a stipulation on that point agreeable?

6. You mention your assistance in securing pro bono counsel for Jane Doe #1 to help prevent harassment. I trust that you would be willing to stipulate that you did not mention the federal non-prosecution agreement to this counsel and that you did not mention that a plea agreement had already been reached. Professor Cassell has spoken to Meg Garvin, Esq., at the National Crime Victims' Law Institute, and that is her recollection of the events.

7. I think that your proposed stipulation regarding my contact with the office is somewhat abbreviated. I wonder what you would think about the following:

In mid-June 2008, Mr. Edwards contacted [REDACTED] to inform her that he represented Jane Doe #1 and, later, Jane Doe #2. Mr. Edwards asked to meet to provide information about the federal crimes committed by Epstein, hoping to secure a significant federal indictment against Epstein. [REDACTED] and Mr. Edwards discussed the possibility of federal charges being filed. At the end of the call, [REDACTED] asked Mr. Edwards to send any information that he wanted considered by the U.S. Attorney's Office in determining whether to file federal charges. Because of the confidentiality provision that existed in the plea agreement, Mr. Edwards was not informed that, in September 2007, the U.S. Attorney's Office had reached an agreement not to file federal charges. Mr. Edwards was also not informed that any resolution of the criminal matter was imminent.

On July 3, 2008, Mr. Edwards sent to [REDACTED] a letter, a true and correct copy of which is attached. In the letter, Mr. Edwards indicated his desire that federal charges be filed against defendant Epstein. In particular, he wrote on behalf of his clients: "We urge the Attorney General and our United States Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual predator." When Mr. Edwards wrote this letter, he was still unaware that a non-prosecution agreement had been reached with Epstein. Mr. Edwards first learned of this fact on or after July 9, 2008, when the Government filed its responsive pleading to Jane Doe's emergency petition. That pleading was the first public mention of the non-prosecution agreement and the first disclosure to Mr. Edwards and his clients.

8. I trust that you will agree that the Government had probable cause to file a multiple count federal indictment against Epstein, including an indictment charging crimes

[REDACTED] HOLLYWOOD, FLORIDA 33020  
[REDACTED]

[REDACTED]  
United States Attorney's Office  
Page 4

against Jane Doe #1 and Jane Doe #2. In asking for this stipulation, I realize that you have taken the position that you would not have filed an indictment involving Jane Doe #2, presumably because you thought that you could not carry the Government's burden of proof beyond a reasonable doubt. At the same time, though, I trust you will concede that the evidence in that case was strong enough to pass the probable cause standard.

9. Finally, in light of the fact that you have been sending letters to Jane Doe #2, which was obviously done because you believed her to be a "victim" in this case, and since she has been added in this matter as a victim, we would like some assurances that she will be protected, as the other victims have been, in your agreement with Mr. Epstein.

Thank you very much for considering these issues and concerns. I look forward to working with you to reach a stipulation that covers as much common ground as possible in this case. If you think that further discussions might be helpful, I would like to try and set up a conference call with you and my co-counsel to discuss these issues further.

Sincerely,



Brad Edwards

BE/sg  
Enclosure

cc: [REDACTED]  
United States Attorney's Office  
99 N.E. 4th Street  
Miami, Florida 33132

EFTA00177705

*Brad Edwards*

AND ASSOCIATES

July 3, 2008

[REDACTED]  
United States Attorney's Office  
[REDACTED]  
West Palm Beach, Florida 33401

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7007 2680 0002 5519 8503

Dear [REDACTED]:

As you are aware, we represent several of the young girls that were victimized and abused by Jeffrey Epstein. While we are aware of his recent guilty plea and conviction in his State Court case, the sentence imposed in that case is grossly inadequate for a sexual predator of this magnitude. The information and evidence that has come to our attention in this matter leads to a grave concern that justice will not be served in this cause if Mr. Epstein is not aggressively prosecuted and appropriately punished. Based on our investigation and knowledge of this case, it is apparent that he has sexually abused more than 100 underage girls, and the evidence against him is overwhelmingly strong.

As former Assistant State Attorneys with seven years' prosecution experience, we believe that the evidence against Mr. Epstein is both credible and deep and that he may be the most dangerous sexual predator of children that our country has ever seen. The evidence suggests that for at least 4 years he was sexually abusing as many as three to four girls a day. It is inevitable that if he is not confined to prison, he will continue to manipulate and sexually abuse children and destroy more lives. He is a sexual addict that focused all of his free time on sexually abusing children, and he uses his extraordinary wealth and power to lure in poor, underprivileged little girls and then also uses his wealth to shield himself from prosecution and liability. We are very concerned for the health and welfare of the girls he has already victimized, and concerned that if justice is not properly served now and he is not imprisoned for a very long time, he will get a free pass to sexually abuse children in the future. Future abuse and victimization is obvious to anyone who really reviews the evidence in this case, and future sexual abuse of minors is inevitable unless he is prosecuted, tried and appropriately sentenced. Money and power should not allow a man to make his own laws, and he has clearly received preferential treatment at every step up to this point. If he were a man of average wealth or the abused girls were from middle or upper class families, then this man would spend the rest of his life in prison. In a country of true, blind justice, those distinctions are irrelevant, and we really hope he does not prove the point that a man can commit heinous crimes against children and buy his way out of it.

If the Department of Justice's recent commitment to the protection of our children from child molesters is to be more than rhetoric, then this is the time and the case where the Department must step forward. We urge the Attorney General and our United States

[REDACTED] HOLLYWOOD, FLORIDA 33020  
[REDACTED]

[REDACTED]  
United States Attorney's Office  
Page Two

Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual perpetrator. We will help you to do this in any way possible to ensure that true Justice is served in this case.

Sincerely,



Brad Edwards, Esquire  
Jay Howell, Esquire

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[REDACTED] HOLLYWOOD, FLORIDA 33020  
[REDACTED]

EFTA00177707

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<p>1. Article Addressed to:</p> <p>  <b>United States Attorney's Office</b>    <b>West Palm Beach, Florida 33401</b></p>	<p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: \_\_\_\_\_

IN RE: JANE DOE,

Petitioner.

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**VICTIM'S PETITION FOR ENFORCEMENT OF  
CRIME VICTIM'S RIGHTS ACT, 18 U.S.C . SECTION 3771**

COMES NOW the Petitioner, JANE DOE (hereinafter "Petitioner"), by and through her undersigned attorneys, pursuant to the Crime Victim's Rights Act, 18 U.S.C. Section 3771 ("CVRA"), and files this Petition for Enforcement in the above styled action as follows:

1. Petitioner, an adult, as a minor child was a victim of federal crimes committed by JEFFREY EPSTEIN (hereinafter "Defendant"). These crimes included sex trafficking of children by fraud, in violation of 18 U.S.C. § 1591, use of a means of interstate commerce to entice a minor to commit prostitution, in violation of 18 U.S.C. § 2422, as well as wire fraud, in violation of 18 U.S.C. § 1343. The Defendant committed these crimes within the jurisdiction of the Southern District of Florida in Palm Beach County, Florida.

2. Upon information and belief, the Defendant is the subject of a federal criminal investigation conducted by the United States of America in the Southern District of Florida. The Defendant has recently been prosecuted and pleaded guilty, on June 30, 2008, in the Circuit Court for Palm Beach County to various similar state offenses including solicitation of minors for prostitution.

3. Upon information and belief, the Defendant is engaged in plea negotiations with the Office of the United States Attorney for the Southern District of Florida concerning federal

crimes which he is alleged to have committed against minor children, including the Petitioner. Such negotiations may likely result in a disposition of the charges in the next several days.

4. Under the CVRA, before any charges are filed against the Defendant, the Petitioner has the rights (among others) to notice of her rights under the CVRA, to confer with the prosecutors, and to be treated with fairness. As soon as charges are filed, the Petitioner has the rights (among others) to timely notice of court proceedings, the right not to be excluded from such proceedings, the right to be heard at such public proceedings regarding conditions of release, any plea, and any sentence, the right to confer with the attorney for the government, the right to restitution, and the right to be treated with fairness and with respect for her dignity and privacy.

5. The Petitioner has been denied her rights in that she has received no consultation with the attorney for the government regarding the possible disposition of the charges, no notice of any public court proceedings, no information regarding her right to restitution, and no notice of rights under the CVRA, as required under law.

6. The Petitioner is in jeopardy of losing her rights, as described above, if the government is able to negotiate a plea or agreement with the Defendant without her participation and knowledge.

WHEREFORE, for the reasons outlined above, the Petitioner respectfully requests this Court to grant her Petition, and to order the United States Attorney to comply with the provisions of the CVRA prior to and including any plea or other agreement with the Defendant and any attendant proceedings.

## MEMORANDUM

### **I. THE CRIME VICTIMS' RIGHTS ACT MAKES CRIME VICTIMS INDEPENDENT PARTICIPANTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.**

In October 2004, Congress passed and the President signed into law the Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2251 (codified at 18 U.S.C. § 3771). Because this appears to be the first case involving the Act to come before this Court, a bit of background may be in order.

#### **A. The CVRA Gives Crime Victims Rights to Participate in the Criminal Justice Process.**

Congress passed the CVRA “to give crime victims enforceable rights to participate in federal criminal proceedings.” Opinion at 14. Congress was concerned that in the federal system crime victims were “treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors too busy to care enough ... and by a court system that simply did not have a place for them.” 150 CONG. REC. S4262 (Apr. 22, 2004) (statement of Sen. Feinstein). To remedy this problem, Congress gave victims “the simple right to know what is going on, to participate in the process where the information that victims and their families can provide may be material and relevant ... .” *Id.*

The CVRA gives victims of federal crimes a series of rights, including the right to notice of court proceedings, to be heard at plea and sentencing hearings, and to reasonably “confer with the attorney for the Government in the case.” 18 U.S.C. § 3771(a). Victims also have a “right of access to the terms of a plea agreement ... .” *In re Interested Party 1*, 530 F.Supp. 2d 136, 2008 WL 134233 at \*7 (D.D.C. 2008). The CVRA also assures victims broadly that they will “be treated with fairness.” 18 U.S.C. § 3771(a)(8).

Of course, these rights would be of little use to most crime victims unless they were told about them. To ensure that victims are notified of their rights, the CVRA directs employees of the Justice Department “and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime” to use their “best efforts to see that crime victims are notified of ... the rights described [in the CVRA].” 18 U.S.C. § 3771(c)(1) (emphasis added).<sup>1</sup>

**B. The CVRA Gives Victims Rights During the Investigation of a Crime.**

The CVRA gives victims rights during the investigation of a crime. The Fifth Circuit recently reached this conclusion, holding:

The district court acknowledged that “[t]here are clearly rights under the CVRA that apply before any prosecution is underway.” BP Prods., 2008 WL 501321 at \*11, 2008 U.S. Dist. LEXIS 12893, at \*36. Logically, this includes the CVRA’s establishment of victims’ “reasonable right to confer with the attorney for the Government.” 18 U.S.C. § 3771(a)(5). At least in the posture of this case (and we do not speculate on the applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims’ views on the possible details of a plea bargain.

*In re Dean*, 527 F.3d 391, 394 (5<sup>th</sup> Cir. 2008).

The position that CVRA rights apply before charges have been filed is consistent with the Justice Department regulations under the CVRA, which explain that government officials “must advise a victim [about their rights under the CVRA] ... at the earliest opportunity at which it may be done without interfering with an investigation.” A.G. GUIDELINES FOR VICTIM AND WITNESS

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<sup>1</sup> Further supporting this requirement is another statute, 42 U.S.C. § 10607(c)(3), which directs government officials to provide victims with “the earliest possible notice of,” among other things, “the filing of charges against a suspected offender.”

ASSISTANCE 23 (May 2005). And the plain language of the CVRA undergirds this conclusion, as it applies not simply to prosecutors but to government agencies “engaged in the detection [and] investigation ... of crime ... .” 18 U.S.C. § 3771(c)(1). Indeed, if there were any doubt, the plain language of the CVRA extends victims’ right to situations “in which no prosecution is underway.” 18 U.S.C. § 3771(d)(3).

## **II. PETITIONER IS A “VICTIM PROTECTED BY THE CVRA.”**

Under the CVRA the crime victim is defined as “a person directly and proximately harmed as a result of the commission of a Federal offense ... .” 18 U.S.C. Section 3771(e). In particular, Defendant called Petitioner when she was a minor over a telephone (a means of interstate communication) requesting that she perform a massage in exchange for payment. As Defendant well knew, that request was fraudulent, as he not only intended to receive a massage, but also intended to have her perform sexual acts in exchange for a cash payment to Petitioner. Only when Petitioner arrived at a Defendant’s mansion as directed by Defendant, did Defendant reveal his true purpose of obtaining sexual favors in exchange for payment. This conduct violated 18 U.S.C. § 2422, which forbids using a means of interstate commerce to knowingly “induce” or “entice” a minor “to engage in prostitution.” In addition, this conduct was both a use of “fraud” to obtain a commercial sex act, in violation of 18 U.S.C § 1591, and use of wire communications to perpetrate a “scheme and artifice to defraud,” in violation of 18 U.S.C. § 1343.

It appears obvious that Petitioner was “directly and proximately” harmed by these crimes, thereby making her a victim under the CVRA. It should be emphasized that the CVRA “was designed to be a ‘broad and encompassing’ statutory victims’ bill of rights.” *United States v.*

*Degenhardt*, 405 F.Supp.2d 1341, 1342 (D. Utah 2005) (quoting 150 Cong. Rec. S4261 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein)). Congress intended the CVRA to dramatically rework the federal criminal justice system. In the course of construing the CVRA generously, the Ninth Circuit observed: “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children -- seen but not heard. The Crime Victims’ Rights Act sought to change this by making victims independent participants in the criminal justice process.” *Kenna v. U.S. Dist. Court for C.D. Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006). Accordingly, because the CVRA is remedial legislation, courts should interpret it “liberally to facilitate and accomplish its purposes and intent.” *Elliott Industries Ltd. Partnership v. BP America Production Co.*, 407 F.3d 1091, 1118 (10th Cir. 2005) (noting remedial legislation should be “interpreted liberally to facilitate and accomplish its purposes and intent”). The CVRA itself suggests this conclusion by requiring that courts must treat crime victims with “fairness.” *United States v. Patkar*, 2008 WL 233062 at \*3 (D. Haw. 2008) (citing *United States v. Turner*, 367 F.Supp.2d 319, 335 (E.D.N.Y. 2005)).

Not only must the CVRA as a whole be interpreted liberally, but its definition of “crime victim” requires a generous construction. After reciting the direct-and-proximate-harm language at issue here, one of the Act’s two co-sponsors -- Senator Kyl -- explained that “[t]his is an intentionally broad definition because all victims of crime deserve to have their rights protected ... .” 150 Cong. Rec. S10912 (Oct. 9, 2004) (emphasis added). The description of the victim definition as “intentionally broad” was in the course of floor colloquy with the other primary sponsor of the CVRA and therefore deserves significant weight. *See Kenna*, 435 F.3d at 1015-16 (discussing significance of CVRA sponsors= floor statements).

The definition of “crime victims” must thus be construed broadly in favor of Petitioner. She obviously qualifies as a “victim” under the CVRA.

**III. PETITIONER IS ENTITLED TO NOTICE OF HER RIGHTS, AN OPPORTUNITY TO CONFER WITH THE PROSECUTORS AND TO BE TREATED WITH FAIRNESS.**

Because Petitioner is a “victim” under the CVRA, she has certain protected rights under the Act. Most important, the Act promises that she will have an opportunity to “confer with the attorney for the Government in the case.” To date, Petitioner has not been given that right. This raises that very real possibility that the Government may negotiate and conclude a plea agreement with the Defendant without giving Petitioner her protected rights.<sup>2</sup>

Petitioner is entitled to have this conference with prosecutors before any final plea agreement is reached. The Fifth Circuit reached exactly this conclusion in a very recent case. In *In re Dean*, 527 F.3d 391 (5<sup>th</sup> Cir. 2008), the Government negotiated a plea agreement with the well-heeled corporate defendant without conferring with the victims. When the Government’s failure was challenged in the Fifth Circuit, the Fifth Circuit concluded that the Government had indeed violated the CVRA. The Fifth Circuit observed: “In passing the [CVRA], Congress made the policy decision—which we are bound to enforce—that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached.” *Id.* at 394.

This Court is obligated to protect the rights of Petitioner. The CVRA directs that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the

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<sup>2</sup> On information and belief, roughly the same crimes were committed against several other young females. These victims, too, are in danger of losing their right to confer under the CVRA.

crime victim is afforded the rights described in [the CVRA].” 18 U.S.C. § 3771(b)(1). The CVRA also confers on crime victims the right to “assert the rights described in [the CVRA].” 18 U.S.C. § 3771(d)(1). Therefore, this Court has its own independent obligation to intercede and ensure that the Government respects the rights of Petitioner under the CVRA.

**CONCLUSION**

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &  
ASSOCIATES, LLC



Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar [REDACTED]

[REDACTED]  
Hollywood, Florida 33020  
[REDACTED]

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: [REDACTED]  
United States Attorney's Office, [REDACTED] West Palm Beach,  
Florida 33401, this 7th day of July, 2008.



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Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar No. [REDACTED]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

JULY 7, 2008  
STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S. D. OF FLA. - MIAMI

CASE NO.

08-80736-Civ-MARRA/JOHNSON

In re;  
Jane DOE  
v.  
United States  
of America  
Plaintiff  
Defendant

CERTIFICATION OF EMERGENCY

I hereby certify that, as a member of the Bar of this Court, I have carefully examined this matter and it is a true emergency.

I further certify that the necessity for this emergency hearing has not been caused by a lack of due diligence on my part, but has been brought about only by the circumstances of this case. The issues presented by this matter have not been submitted to the Judge assigned to this case or any other Judge or Magistrate Judge of the Southern District of Florida prior hereto.

I further certify that I have made a bona fide effort to resolve this matter without the necessity of emergency action.

Dated this 7 day of July, 2008.  
Signature: [Handwritten Signature]  
Print Name: Brad  
Florida Bar Number: [Redacted]  
Telephone Number: [Redacted]

\*\*\*\*\*

I hereby certify that the Judge assigned to this case is unavailable for this emergency (a copy of his/her notification to the Clerk is on file). In accordance with Local Rule 3.7, the Honorable \_\_\_\_\_ was randomly drawn from the Emergency Wheel.

Dated: \_\_\_\_\_

STEVEN M. LARIMORE  
Court Administrator • Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80736-CIV-MARRA/JOHNSON

IN RE: JANE DOE,

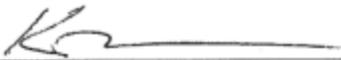
Petitioner

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**ORDER**

THIS CAUSE comes before the Court on Plaintiff's Emergency Petition for Enforcement of Crime Victim's Rights Act (DE 1), filed July 7, 2008. It is hereby **ORDERED** that the United States' Attorney shall file a response to this petition by 5:00 P.M. on Wednesday, July 9, 2008.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida, this 7<sup>th</sup> day of July, 2008.

  
\_\_\_\_\_  
KENNETH A. MARRA  
United States District Judge

Copies furnished to:  
R. Alexander Acosta, United States' Attorney  
all counsel of record

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: \_\_\_\_\_

IN RE: JANE DOE,  
  
Petitioner.

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**VICTIM'S PETITION FOR ENFORCEMENT OF  
CRIME VICTIM'S RIGHTS ACT, 18 U.S.C . SECTION 3771**

COMES NOW the Petitioner, JANE DOE (hereinafter "Petitioner"), by and through her undersigned attorneys, pursuant to the Crime Victim's Rights Act, 18 U.S.C. Section 3771 ("CVRA"), and files this Petition for Enforcement in the above styled action as follows:

1. Petitioner, an adult, as a minor child was a victim of federal crimes committed by JEFFREY EPSTEIN (hereinafter "Defendant"). These crimes included sex trafficking of children by fraud, in violation of 18 U.S.C. § 1591, use of a means of interstate commerce to entice a minor to commit prostitution, in violation of 18 U.S.C. § 2422, as well as wire fraud, in violation of 18 U.S.C. § 1343. The Defendant committed these crimes within the jurisdiction of the Southern District of Florida in Palm Beach County, Florida.

2. Upon information and belief, the Defendant is the subject of a federal criminal investigation conducted by the United States of America in the Southern District of Florida. The Defendant has recently been prosecuted and pleaded guilty, on June 30, 2008, in the Circuit Court for Palm Beach County to various similar state offenses including solicitation of minors for prostitution.

3. Upon information and belief, the Defendant is engaged in plea negotiations with the Office of the United States Attorney for the Southern District of Florida concerning federal

crimes which he is alleged to have committed against minor children, including the Petitioner. Such negotiations may likely result in a disposition of the charges in the next several days.

4. Under the CVRA, before any charges are filed against the Defendant, the Petitioner has the rights (among others) to notice of her rights under the CVRA, to confer with the prosecutors, and to be treated with fairness. As soon as charges are filed, the Petitioner has the rights (among others) to timely notice of court proceedings, the right not to be excluded from such proceedings, the right to be heard at such public proceedings regarding conditions of release, any plea, and any sentence, the right to confer with the attorney for the government, the right to restitution, and the right to be treated with fairness and with respect for her dignity and privacy.

5. The Petitioner has been denied her rights in that she has received no consultation with the attorney for the government regarding the possible disposition of the charges, no notice of any public court proceedings, no information regarding her right to restitution, and no notice of rights under the CVRA, as required under law.

6. The Petitioner is in jeopardy of losing her rights, as described above, if the government is able to negotiate a plea or agreement with the Defendant without her participation and knowledge.

WHEREFORE, for the reasons outlined above, the Petitioner respectfully requests this Court to grant her Petition, and to order the United States Attorney to comply with the provisions of the CVRA prior to and including any plea or other agreement with the Defendant and any attendant proceedings.

## MEMORANDUM

### **I. THE CRIME VICTIMS' RIGHTS ACT MAKES CRIME VICTIMS INDEPENDENT PARTICIPANTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.**

In October 2004, Congress passed and the President signed into law the Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2251 (codified at 18 U.S.C. § 3771). Because this appears to be the first case involving the Act to come before this Court, a bit of background may be in order.

#### **A. The CVRA Gives Crime Victims Rights to Participate in the Criminal Justice Process.**

Congress passed the CVRA "to give crime victims enforceable rights to participate in federal criminal proceedings." Opinion at 14. Congress was concerned that in the federal system crime victims were "treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors too busy to care enough ... and by a court system that simply did not have a place for them." 150 CONG. REC. S4262 (Apr. 22, 2004) (statement of Sen. Feinstein). To remedy this problem, Congress gave victims "the simple right to know what is going on, to participate in the process where the information that victims and their families can provide may be material and relevant ... ." *Id.*

The CVRA gives victims of federal crimes a series of rights, including the right to notice of court proceedings, to be heard at plea and sentencing hearings, and to reasonably "confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a). Victims also have a "right of access to the terms of a plea agreement ... ." *In re Interested Party 1*, 530 F.Supp. 2d 136, 2008 WL 134233 at \*7 (D.D.C. 2008). The CVRA also assures victims broadly that they will "be treated with fairness." 18 U.S.C. § 3771(a)(8).

Of course, these rights would be of little use to most crime victims unless they were told about them. To ensure that victims are notified of their rights, the CVRA directs employees of the Justice Department “and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime” to use their “best efforts to see that crime victims are notified of ... the rights described [in the CVRA].” 18 U.S.C. § 3771(c)(1) (emphasis added).<sup>1</sup>

**B. The CVRA Gives Victims Rights During the Investigation of a Crime.**

The CVRA gives victims rights during the investigation of a crime. The Fifth Circuit recently reached this conclusion, holding:

The district court acknowledged that “[t]here are clearly rights under the CVRA that apply before any prosecution is underway.” BP Prods., 2008 WL 501321 at \*11, 2008 U.S. Dist. LEXIS 12893, at \*36. Logically, this includes the CVRA's establishment of victims' “reasonable right to confer with the attorney for the Government.” 18 U.S.C. § 3771(a)(5). At least in the posture of this case (and we do not speculate on the applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims' views on the possible details of a plea bargain.

*In re Dean*, 527 F.3d 391, 394 (5<sup>th</sup> Cir. 2008).

The position that CVRA rights apply before charges have been filed is consistent with the Justice Department regulations under the CVRA, which explain that government officials “must advise a victim [about their rights under the CVRA] ... at the earliest opportunity at which it may be done without interfering with an investigation.” A.G. GUIDELINES FOR VICTIM AND WITNESS

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<sup>1</sup> Further supporting this requirement is another statute, 42 U.S.C. § 10607(c)(3), which directs government officials to provide victims with “the earliest possible notice of,” among other things, “the filing of charges against a suspected offender.”

ASSISTANCE 23 (May 2005). And the plain language of the CVRA undergirds this conclusion, as it applies not simply to prosecutors but to government agencies “engaged in the detection [and] investigation ... of crime ... .” 18 U.S.C. § 3771(c)(1). Indeed, if there were any doubt, the plain language of the CVRA extends victims’ right to situations “in which no prosecution is underway.” 18 U.S.C. § 3771(d)(3).

## II. PETITIONER IS A “VICTIM PROTECTED BY THE CVRA.

Under the CVRA the crime victim is defined as “a person directly and proximately harmed as a result of the commission of a Federal offense ... .” 18 U.S.C. Section 3771(e). In particular, Defendant called Petitioner when she was a minor over a telephone (a means of interstate communication) requesting that she perform a massage in exchange for payment. As Defendant well knew, that request was fraudulent, as he not only intended to receive a massage, but also intended to have her perform sexual acts in exchange for a cash payment to Petitioner. Only when Petitioner arrived at a Defendant’s mansion as directed by Defendant, did Defendant reveal his true purpose of obtaining sexual favors in exchange for payment. This conduct violated 18 U.S.C. § 2422, which forbids using a means of interstate commerce to knowingly “induce” or “entice” a minor “to engage in prostitution.” In addition, this conduct was both a use of “fraud” to obtain a commercial sex act, in violation of 18 U.S.C § 1591, and use of wire communications to perpetrate a “scheme and artifice to defraud,” in violation of 18 U.S.C. § 1343.

It appears obvious that Petitioner was “directly and proximately” harmed by these crimes, thereby making her a victim under the CVRA. It should be emphasized that the CVRA “was designed to be a ‘broad and encompassing’ statutory victims’ bill of rights.” *United States v.*

*Degenhardt*, 405 F.Supp.2d 1341, 1342 (D. Utah 2005) (quoting 150 Cong. Rec. S4261 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein)). Congress intended the CVRA to dramatically rework the federal criminal justice system. In the course of construing the CVRA generously, the Ninth Circuit observed: “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children -- seen but not heard. The Crime Victims’ Rights Act sought to change this by making victims independent participants in the criminal justice process.” *Kenna v. U.S. Dist. Court for C.D. Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006). Accordingly, because the CVRA is remedial legislation, courts should interpret it “liberally to facilitate and accomplish its purposes and intent.” *Elliott Industries Ltd. Partnership v. BP America Production Co.*, 407 F.3d 1091, 1118 (10th Cir. 2005) (noting remedial legislation should be “interpreted liberally to facilitate and accomplish its purposes and intent”). The CVRA itself suggests this conclusion by requiring that courts must treat crime victims with “fairness.” *United States v. Patkar*, 2008 WL 233062 at \*3 (D. Haw. 2008) (citing *United States v. Turner*, 367 F.Supp.2d 319, 335 (E.D.N.Y. 2005)).

Not only must the CVRA as a whole be interpreted liberally, but its definition of “crime victim” requires a generous construction. After reciting the direct-and-proximate-harm language at issue here, one of the Act’s two co-sponsors -- Senator Kyl -- explained that “[t]his is an intentionally broad definition because all victims of crime deserve to have their rights protected ... .” 150 Cong. Rec. S10912 (Oct. 9, 2004) (emphasis added). The description of the victim definition as “intentionally broad” was in the course of floor colloquy with the other primary sponsor of the CVRA and therefore deserves significant weight. See *Kenna*, 435 F.3d at 1015-16 (discussing significance of CVRA sponsors= floor statements).

The definition of “crime victims” must thus be construed broadly in favor of Petitioner. She obviously qualifies as a “victim” under the CVRA.

**III. PETITIONER IS ENTITLED TO NOTICE OF HER RIGHTS, AN OPPORTUNITY TO CONFER WITH THE PROSECUTORS AND TO BE TREATED WITH FAIRNESS.**

Because Petitioner is a “victim” under the CVRA, she has certain protected rights under the Act. Most important, the Act promises that she will have an opportunity to “confer with the attorney for the Government in the case.” To date, Petitioner has not been given that right. This raises that very real possibility that the Government may negotiate and conclude a plea agreement with the Defendant without giving Petitioner her protected rights.<sup>2</sup>

Petitioner is entitled to have this conference with prosecutors before any final plea agreement is reached. The Fifth Circuit reached exactly this conclusion in a very recent case. In *In re Dean*, 527 F.3d 391 (5<sup>th</sup> Cir. 2008), the Government negotiated a plea agreement with the well-heeled corporate defendant without conferring with the victims. When the Government’s failure was challenged in the Fifth Circuit, the Fifth Circuit concluded that the Government had indeed violated the CVRA. The Fifth Circuit observed: “In passing the [CVRA], Congress made the policy decision—which we are bound to enforce—that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached.” *Id.* at 394.

This Court is obligated to protect the rights of Petitioner. The CVRA directs that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the

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<sup>2</sup> On information and belief, roughly the same crimes were committed against several other young females. These victims, too, are in danger of losing their right to confer under the CVRA.

crime victim is afforded the rights described in [the CVRA].” 18 U.S.C. § 3771(b)(1). The CVRA also confers on crime victims the right to “assert the rights described in [the CVRA].” 18 U.S.C. § 3771(d)(1). Therefore, this Court has its own independent obligation to intercede and ensure that the Government respects the rights of Petitioner under the CVRA.

**CONCLUSION**

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &  
ASSOCIATES, LLC



Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar [REDACTED]

[REDACTED]  
Hollywood, Florida 33020  
[REDACTED]

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: [REDACTED]  
United States Attorney's Office, [REDACTED] West Palm Beach,  
Florida 33401, this 7th day of July, 2008.



\_\_\_\_\_  
Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar No. [REDACTED]

Page 1 of 10 ELECTRONIC <b>JULY 7, 2008</b> STEVEN M. LARIMORE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**08-80736-Civ-MARRA/JOHNSON**

CASE NO.: \_\_\_\_\_

IN RE: JANE DOE,

Petitioner.

*Emergency* **VICTIM'S PETITION FOR ENFORCEMENT OF  
CRIME VICTIM'S RIGHTS ACT, 18 U.S.C. SECTION 3771**

COMES NOW the Petitioner, JANE DOE (hereinafter "Petitioner"), by and through her undersigned attorneys, pursuant to the Crime Victim's Rights Act, 18 U.S.C. Section 3771 ("CVRA"), and files this Petition for Enforcement in the above styled action as follows:

1. Petitioner, an adult, as a minor child was a victim of federal crimes committed by JEFFREY EPSTEIN (hereinafter "Defendant"). These crimes included sex trafficking of children by fraud, in violation of 18 U.S.C. § 1591, use of a means of interstate commerce to entice a minor to commit prostitution, in violation of 18 U.S.C. § 2422, as well as wire fraud, in violation of 18 U.S.C. § 1343. The Defendant committed these crimes within the jurisdiction of the Southern District of Florida in Palm Beach County, Florida.

2. Upon information and belief, the Defendant is the subject of a federal criminal investigation conducted by the United States of America in the Southern District of Florida. The Defendant has recently been prosecuted and pleaded guilty, on June 30, 2008, in the Circuit Court for Palm Beach County to various similar state offenses including solicitation of minors for prostitution.

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crimes which he is alleged to have committed against minor children, including the Petitioner. Such negotiations may likely result in a disposition of the charges in the next several days.

4. Under the CVRA, before any charges are filed against the Defendant, the Petitioner has the rights (among others) to notice of her rights under the CVRA, to confer with the prosecutors, and to be treated with fairness. As soon as charges are filed, the Petitioner has the rights (among others) to timely notice of court proceedings, the right not to be excluded from such proceedings, the right to be heard at such public proceedings regarding conditions of release, any plea, and any sentence, the right to confer with the attorney for the government, the right to restitution, and the right to be treated with fairness and with respect for her dignity and privacy.

5. The Petitioner has been denied her rights in that she has received no consultation with the attorney for the government regarding the possible disposition of the charges, no notice of any public court proceedings, no information regarding her right to restitution, and no notice of rights under the CVRA, as required under law.

6. The Petitioner is in jeopardy of losing her rights, as described above, if the government is able to negotiate a plea or agreement with the Defendant without her participation and knowledge.

WHEREFORE, for the reasons outlined above, the Petitioner respectfully requests this Court to grant her Petition, and to order the United States Attorney to comply with the provisions of the CVRA prior to and including any plea or other agreement with the Defendant and any attendant proceedings.

**MEMORANDUM**

**I. THE CRIME VICTIMS' RIGHTS ACT MAKES CRIME VICTIMS INDEPENDENT PARTICIPANTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.**

In October 2004, Congress passed and the President signed into law the Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2251 (codified at 18 U.S.C. § 3771). Because this appears to be the first case involving the Act to come before this Court, a bit of background may be in order.

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ASSISTANCE 23 (May 2005). And the plain language of the CVRA undergirds this conclusion, as it applies not simply to prosecutors but to government agencies “engaged in the detection [and] investigation ... of crime ... .” 18 U.S.C. § 3771(c)(1). Indeed, if there were any doubt, the plain language of the CVRA extends victims’ right to situations “in which no prosecution is underway.” 18 U.S.C. § 3771(d)(3).

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**CONCLUSION**

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &  
ASSOCIATES, LLC

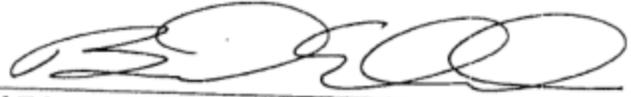


Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar [REDACTED]

[REDACTED]  
Hollywood, Florida 33020  
[REDACTED]

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: [REDACTED]  
United States Attorney's Office, [REDACTED] West Palm Beach,  
Florida 33401, this 7th day of July, 2008.



Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar No. [REDACTED]

JS 44 (Rev. 2/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) NOTICE: Attorneys MUST Indicate All Re-filed

JULY 7, 2008

STEVEN M. LARIMORE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI

I. (a) PLAINTIFFS

In re: Jane Doe

DEFENDANTS

United States of

(b) County of Residence of First Listed Plaintiff Palm Bch.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law office of Brad Edwards & Associates

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (if known)

office U.S. attys

(1) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

08CV80736 MARRA/JOHNSON

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and sub-items.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (see VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): Crime Victim's Rights Act 18 USC § 3771
Petition on behalf of victim of sex offenses to be accorded her rights under the CVRA
LENGTH OF TRIAL via 1 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMANDS CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

[Signature]

7-7-08

FOR OFFICE USE ONLY

AMOUNT 350.00

RECEIPT # 724403

**The Law Office of  
BRAD EDWARDS & ASSOCIATES, LLC**

---

**FACSIMILE COVER SHEET**

DATE: 07/07/08

TO: [REDACTED]

FAX NUMBER: [REDACTED]

FROM: Shawn Gilbert, Legal Assistant to Brad Edwards, Esquire

MESSAGE: Attached is a courtesy copy of the Petition that was filed this afternoon in the United States District Court, Southern District of Florida, bearing case number 08-80736-CIV-MARRA/JOHNSON.

I will also be sending you a copy via United States mail and will fax a date/stamped copy to you tomorrow.

Mr. Edwards is out of the office the remainder of the day. However, if you have any questions, please feel free to contact me.

We are transmitting  10  pages including this cover sheet.

*THE INFORMATION CONTAINED IN THIS TRANSMISSION IS CONFIDENTIAL AND MAY ALSO BE SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR MAY CONSTITUTE PRIVILEGED WORK PRODUCT. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us via U.S. mail.*

[REDACTED] Hollywood, Florida 33020

[REDACTED]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: \_\_\_\_\_

IN RE: JANE DOE,

Petitioner.

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**VICTIM'S PETITION FOR ENFORCEMENT OF  
CRIME VICTIM'S RIGHTS ACT, 18 U.S.C. SECTION 3771**

COMES NOW the Petitioner, JANE DOE (hereinafter "Petitioner"), by and through her undersigned attorneys, pursuant to the Crime Victim's Rights Act, 18 U.S.C. Section 3771 ("CVRA"), and files this Petition for Enforcement in the above styled action as follows:

1. Petitioner, an adult, as a minor child was a victim of federal crimes committed by JEFFREY EPSTEIN (hereinafter "Defendant"). These crimes included sex trafficking of children by fraud, in violation of 18 U.S.C. § 1591, use of a means of interstate commerce to entice a minor to commit prostitution, in violation of 18 U.S.C. § 2422, as well as wire fraud, in violation of 18 U.S.C. § 1343. The Defendant committed these crimes within the jurisdiction of the Southern District of Florida in Palm Beach County, Florida.

2. Upon information and belief, the Defendant is the subject of a federal criminal investigation conducted by the United States of America in the Southern District of Florida. The Defendant has recently been prosecuted and pleaded guilty, on June 30, 2008, in the Circuit Court for Palm Beach County to various similar state offenses including solicitation of minors for prostitution.

3. Upon information and belief, the Defendant is engaged in plea negotiations with the Office of the United States Attorney for the Southern District of Florida concerning federal

crimes which he is alleged to have committed against minor children, including the Petitioner. Such negotiations may likely result in a disposition of the charges in the next several days.

4. Under the CVRA, before any charges are filed against the Defendant, the Petitioner has the rights (among others) to notice of her rights under the CVRA, to confer with the prosecutors, and to be treated with fairness. As soon as charges are filed, the Petitioner has the rights (among others) to timely notice of court proceedings, the right not to be excluded from such proceedings, the right to be heard at such public proceedings regarding conditions of release, any plea, and any sentence, the right to confer with the attorney for the government, the right to restitution, and the right to be treated with fairness and with respect for her dignity and privacy.

5. The Petitioner has been denied her rights in that she has received no consultation with the attorney for the government regarding the possible disposition of the charges, no notice of any public court proceedings, no information regarding her right to restitution, and no notice of rights under the CVRA, as required under law.

6. The Petitioner is in jeopardy of losing her rights, as described above, if the government is able to negotiate a plea or agreement with the Defendant without her participation and knowledge.

WHEREFORE, for the reasons outlined above, the Petitioner respectfully requests this Court to grant her Petition, and to order the United States Attorney to comply with the provisions of the CVRA prior to and including any plea or other agreement with the Defendant and any attendant proceedings.

**MEMORANDUM**

**I. THE CRIME VICTIMS' RIGHTS ACT MAKES CRIME VICTIMS INDEPENDENT PARTICIPANTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.**

In October 2004, Congress passed and the President signed into law the Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2251 (codified at 18 U.S.C. § 3771). Because this appears to be the first case involving the Act to come before this Court, a bit of background may be in order.

**A. The CVRA Gives Crime Victims Rights to Participate in the Criminal Justice Process.**

Congress passed the CVRA "to give crime victims enforceable rights to participate in federal criminal proceedings." Opinion at 14. Congress was concerned that in the federal system crime victims were "treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors too busy to care enough ... and by a court system that simply did not have a place for them." 150 CONG. REC. S4262 (Apr. 22, 2004) (statement of Sen. Feinstein). To remedy this problem, Congress gave victims "the simple right to know what is going on, to participate in the process where the information that victims and their families can provide may be material and relevant ... ." *Id.*

The CVRA gives victims of federal crimes a series of rights, including the right to notice of court proceedings, to be heard at plea and sentencing hearings, and to reasonably "confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a). Victims also have a "right of access to the terms of a plea agreement ... ." *In re Interested Party 1*, 530 F.Supp. 2d 136, 2008 WL 134233 at \*7 (D.D.C. 2008). The CVRA also assures victims broadly that they will "be treated with fairness." 18 U.S.C. § 3771(a)(8).

Of course, these rights would be of little use to most crime victims unless they were told about them. To ensure that victims are notified of their rights, the CVRA directs employees of the Justice Department “and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime” to use their “best efforts to see that crime victims are notified of ... the rights described [in the CVRA].” 18 U.S.C. § 3771(c)(1) (emphasis added).<sup>1</sup>

**B. The CVRA Gives Victims Rights During the Investigation of a Crime.**

The CVRA gives victims rights during the investigation of a crime. The Fifth Circuit recently reached this conclusion, holding:

The district court acknowledged that “[t]here are clearly rights under the CVRA that apply before any prosecution is underway.” BP Prods., 2008 WL 501321 at \*11, 2008 U.S. Dist. LEXIS 12893, at \*36. Logically, this includes the CVRA’s establishment of victims’ “reasonable right to confer with the attorney for the Government.” 18 U.S.C. § 3771(a)(5). At least in the posture of this case (and we do not speculate on the applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims’ views on the possible details of a plea bargain.

*In re Dean*, 527 F.3d 391, 394 (5<sup>th</sup> Cir. 2008).

The position that CVRA rights apply before charges have been filed is consistent with the Justice Department regulations under the CVRA, which explain that government officials “must advise a victim [about their rights under the CVRA] ... at the earliest opportunity at which it may be done without interfering with an investigation.” A.G. GUIDELINES FOR VICTIM AND WITNESS

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<sup>1</sup> Further supporting this requirement is another statute, 42 U.S.C. § 10607(c)(3), which directs government officials to provide victims with “the earliest possible notice of,” among other things, “the filing of charges against a suspected offender.”

ASSISTANCE 23 (May 2005). And the plain language of the CVRA undergirds this conclusion, as it applies not simply to prosecutors but to government agencies “engaged in the detection [and] investigation ... of crime ... .” 18 U.S.C. § 3771(c)(1). Indeed, if there were any doubt, the plain language of the CVRA extends victims’ right to situations “in which no prosecution is underway.” 18 U.S.C. § 3771(d)(3).

## II. PETITIONER IS A “VICTIM PROTECTED BY THE CVRA.

Under the CVRA the crime victim is defined as “a person directly and proximately harmed as a result of the commission of a Federal offense ... .” 18 U.S.C. Section 3771(e). In particular, Defendant called Petitioner when she was a minor over a telephone (a means of interstate communication) requesting that she perform a massage in exchange for payment. As Defendant well knew, that request was fraudulent, as he not only intended to receive a massage, but also intended to have her perform sexual acts in exchange for a cash payment to Petitioner. Only when Petitioner arrived at a Defendant’s mansion as directed by Defendant, did Defendant reveal his true purpose of obtaining sexual favors in exchange for payment. This conduct violated 18 U.S.C. § 2422, which forbids using a means of interstate commerce to knowingly “induce” or “entice” a minor “to engage in prostitution.” In addition, this conduct was both a use of “fraud” to obtain a commercial sex act, in violation of 18 U.S.C § 1591, and use of wire communications to perpetrate a “scheme and artifice to defraud,” in violation of 18 U.S.C. § 1343.

It appears obvious that Petitioner was “directly and proximately” harmed by these crimes, thereby making her a victim under the CVRA. It should be emphasized that the CVRA “was designed to be a ‘broad and encompassing’ statutory victims’ bill of rights.” *United States v.*

*Degenhardt*, 405 F.Supp.2d 1341, 1342 (D. Utah 2005) (quoting 150 Cong. Rec. S4261 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein)). Congress intended the CVRA to dramatically rework the federal criminal justice system. In the course of construing the CVRA generously, the Ninth Circuit observed: “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children -- seen but not heard. The Crime Victims’ Rights Act sought to change this by making victims independent participants in the criminal justice process.” *Kenna v. U.S. Dist. Court for C.D. Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006). Accordingly, because the CVRA is remedial legislation, courts should interpret it “liberally to facilitate and accomplish its purposes and intent.” *Elliott Industries Ltd. Partnership v. BP America Production Co.*, 407 F.3d 1091, 1118 (10th Cir. 2005) (noting remedial legislation should be “interpreted liberally to facilitate and accomplish its purposes and intent”). The CVRA itself suggests this conclusion by requiring that courts must treat crime victims with “fairness.” *United States v. Patkar*, 2008 WL 233062 at \*3 (D. Haw. 2008) (citing *United States v. Turner*, 367 F.Supp.2d 319, 335 (E.D.N.Y. 2005)).

Not only must the CVRA as a whole be interpreted liberally, but its definition of “crime victim” requires a generous construction. After reciting the direct-and-proximate-harm language at issue here, one of the Act’s two co-sponsors -- Senator Kyl -- explained that “[t]his is an intentionally broad definition because all victims of crime deserve to have their rights protected ... .” 150 Cong. Rec. S10912 (Oct. 9, 2004) (emphasis added). The description of the victim definition as “intentionally broad” was in the course of floor colloquy with the other primary sponsor of the CVRA and therefore deserves significant weight. *See Kenna*, 435 F.3d at 1015-16 (discussing significance of CVRA sponsors= floor statements).

The definition of “crime victims” must thus be construed broadly in favor of Petitioner. She obviously qualifies as a “victim” under the CVRA.

**III. PETITIONER IS ENTITLED TO NOTICE OF HER RIGHTS, AN OPPORTUNITY TO CONFER WITH THE PROSECUTORS AND TO BE TREATED WITH FAIRNESS.**

Because Petitioner is a “victim” under the CVRA, she has certain protected rights under the Act. Most important, the Act promises that she will have an opportunity to “confer with the attorney for the Government in the case.” To date, Petitioner has not been given that right. This raises that very real possibility that the Government may negotiate and conclude a plea agreement with the Defendant without giving Petitioner her protected rights.<sup>2</sup>

Petitioner is entitled to have this conference with prosecutors before any final plea agreement is reached. The Fifth Circuit reached exactly this conclusion in a very recent case. In *In re Dean*, 527 F.3d 391 (5<sup>th</sup> Cir. 2008), the Government negotiated a plea agreement with the well-heeled corporate defendant without conferring with the victims. When the Government’s failure was challenged in the Fifth Circuit, the Fifth Circuit concluded that the Government had indeed violated the CVRA. The Fifth Circuit observed: “In passing the [CVRA], Congress made the policy decision—which we are bound to enforce—that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached.” *Id.* at 394.

This Court is obligated to protect the rights of Petitioner. The CVRA directs that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the

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<sup>2</sup> On information and belief, roughly the same crimes were committed against several other young females. These victims, too, are in danger of losing their right to confer under the CVRA.

crime victim is afforded the rights described in [the CVRA].” 18 U.S.C. § 3771(b)(1). The CVRA also confers on crime victims the right to “assert the rights described in [the CVRA].” 18 U.S.C. § 3771(d)(1). Therefore, this Court has its own independent obligation to intercede and ensure that the Government respects the rights of Petitioner under the CVRA.

**CONCLUSION**

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &  
ASSOCIATES, LLC



Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar [REDACTED]

[REDACTED]  
Hollywood, Florida 33020  
[REDACTED]

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: [REDACTED]  
United States Attorney's Office, [REDACTED] West Palm Beach,  
Florida 33401, this 7th day of July, 2008.



\_\_\_\_\_  
Brad Edwards, Esquire  
Attorney for Petitioner  
Florida Bar No. [REDACTED]

**The Law Office of  
BRAD EDWARDS & ASSOCIATES, LLC**

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**FACSIMILE COVER SHEET**

DATE: 07/08/08  
TO: [REDACTED]  
FAX NUMBER: [REDACTED]  
FROM: Brad Edwards, Esquire  
MESSAGE: Attached is dated/stamped copy of the Civil Cover Sheet, together with a dated/stamped copy of the Emergency Victim's Petition for Enforcement of Crime Victim's Rights Act filed yesterday, July 7, 2008.

If you have any questions, please do not hesitate to contact me.

We are transmitting  11  pages including this cover sheet.

*THE INFORMATION CONTAINED IN THIS TRANSMISSION IS CONFIDENTIAL AND MAY ALSO BE SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR MAY CONSTITUTE PRIVILEGED WORK PRODUCT. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us via U.S. mail.*

2028 Harrison Street, Suite 202, Hollywood, Florida 33020

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Office: [REDACTED] (Broward) - [REDACTED] (Miami-Dade)  
Facsimile: [REDACTED] (Broward) - [REDACTED] (Miami-Dade)

# 08-80736-Civ-MARRA/JOHNSON

FILED by DJ D.C. ELECTRONIC

JULY 7, 2008

STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

JS 44 (Rev. 2-04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers in any local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk in the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed**

### I. (a) PLAINTIFFS

*In re: Jane Doe*

(b) County of Residence of First Listed Plaintiff Palm Bch.  
(EXCEPT IN U.S. PLAINTIFF CASES)

### (c) Attorney's Firm Name, Address, and Telephone Number

*Law office of Brad Edwards + Associates*  
*Hollywood, FL 33020*

### DEFENDANTS

*United States of*

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

### Attorney (If Known)

*office*

*U.S. attys*

(i) Check County Where Action Arose:  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE HIGHLANDS

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

*08-CV-80736 MARRA/JOHNSON*

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Residence in This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Assault	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 A Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (See - Veterans)	<input type="checkbox"/> 350 Motor Vehicle Liability	<b>LABOR</b>	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395R)	<input type="checkbox"/> 490 Cable Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 500 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 550 Securities Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 575 Customer Challenge 12 USC 3410
<input type="checkbox"/> 246 Franchise	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 791 Empl. Ret. Inv. Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 590 Other Statutory Actions
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 591 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Petitions in Various Sentences	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 592 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS Third Party 36 USC 7609	<input type="checkbox"/> 593 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing Accommodations	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 594 Energy Allocation Act
<input type="checkbox"/> 240 Tenancy Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 595 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities - Employment	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/ Disabilities - Other	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input checked="" type="checkbox"/> 440 Other Civil Rights			

### V. ORIGIN

(Place an "X" in One Box Only)  
 1 Original Proceeding  2 Removed from State Court  3 Re-filed (see VI below)  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

### VI. RELATED/RE-FILED CASE(S).

(See instructions on back page)  
a) Re-filed Case  YES  NO b) Related Cases  YES  NO  
JUDGE DOCKET NUMBER

### VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): *Crime Victims Rights Act 18 USC § 3771*  
*Petition on behalf of victim of sex offenses to be accorded her rights under the CVRA*  
LENGTH OF TRIAL via 1 days estimated (for both sides to try entire case)

### VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD  
*[Signature]*

DATE  
*7-7-08*

FOR OFFICE USE ONLY  
AMOUNT 350.00 RECEIPT # 124403 IFF

FILED by <b>DJ</b> D.C. ELECTRONIC
<b>JULY 7, 2008</b>
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**08-80736-Civ-MARRA/JOHNSON**  
CASE NO.: \_\_\_\_\_

IN RE: JANE DOE,

Petitioner.

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Under the CVRA the crime victim is defined as “a person directly and proximately harmed as a result of the commission of a Federal offense ... .” 18 U.S.C. Section 3771(e). In particular, Defendant called Petitioner when she was a minor over a telephone (a means of interstate communication) requesting that she perform a massage in exchange for payment. As Defendant well knew, that request was fraudulent, as he not only intended to receive a massage, but also intended to have her perform sexual acts in exchange for a cash payment to Petitioner. Only when Petitioner arrived at a Defendant’s mansion as directed by Defendant, did Defendant reveal his true purpose of obtaining sexual favors in exchange for payment. This conduct violated 18 U.S.C. § 2422, which forbids using a means of interstate commerce to knowingly “induce” or “entice” a minor “to engage in prostitution.” In addition, this conduct was both a use of “fraud” to obtain a commercial sex act, in violation of 18 U.S.C § 1591, and use of wire communications to perpetrate a “scheme and artifice to defraud,” in violation of 18 U.S.C. § 1343.

It appears obvious that Petitioner was “directly and proximately” harmed by these crimes, thereby making her a victim under the CVRA. It should be emphasized that the CVRA “was designed to be a ‘broad and encompassing’ statutory victims’ bill of rights.” *United States v.*

*Degenhardt*, 405 F.Supp.2d 1341, 1342 (D. Utah 2005) (quoting 150 Cong. Rec. S4261 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein)). Congress intended the CVRA to dramatically rework the federal criminal justice system. In the course of construing the CVRA generously, the Ninth Circuit observed: “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children -- seen but not heard. The Crime Victims’ Rights Act sought to change this by making victims independent participants in the criminal justice process.” *Kenna v. U.S. Dist. Court for C.D. Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006). Accordingly, because the CVRA is remedial legislation, courts should interpret it “liberally to facilitate and accomplish its purposes and intent.” *Elliot Industries Ltd. Partnership v. BP America Production Co.*, 407 F.3d 1091, 1118 (10th Cir. 2005) (noting remedial legislation should be “interpreted liberally to facilitate and accomplish its purposes and intent”). The CVRA itself suggests this conclusion by requiring that courts must treat crime victims with “fairness.” *United States v. Patkar*, 2008 WL 233062 at \*3 (D. Haw. 2008) (citing *United States v. Turner*, 367 F.Supp.2d 319, 335 (E.D.N.Y. 2005)).

Not only must the CVRA as a whole be interpreted liberally, but its definition of “crime victim” requires a generous construction. After reciting the direct-and-proximate-harm language at issue here, one of the Act’s two co-sponsors -- Senator Kyl -- explained that “[t]his is an intentionally broad definition because all victims of crime deserve to have their rights protected ... .” 150 Cong. Rec. S10912 (Oct. 9, 2004) (emphasis added). The description of the victim definition as “intentionally broad” was in the course of floor colloquy with the other primary sponsor of the CVRA and therefore deserves significant weight. See *Kenna*, 435 F.3d at 1015-16 (discussing significance of CVRA sponsors= floor statements).

The definition of "crime victims" must thus be construed broadly in favor of Petitioner.

She obviously qualifies as a "victim" under the CVRA.

**III. PETITIONER IS ENTITLED TO NOTICE OF HER RIGHTS, AN OPPORTUNITY TO CONFER WITH THE PROSECUTORS AND TO BE TREATED WITH FAIRNESS.**

Because Petitioner is a "victim" under the CVRA, she has certain protected rights under the Act. Most important, the Act promises that she will have an opportunity to "confer with the attorney for the Government in the case." To date, Petitioner has not been given that right. This raises that very real possibility that the Government may negotiate and conclude a plea agreement with the Defendant without giving Petitioner her protected rights.<sup>2</sup>

Petitioner is entitled to have this conference with prosecutors before any final plea agreement is reached. The Fifth Circuit reached exactly this conclusion in a very recent case. In *In re Dean*, 527 F.3d 391 (5<sup>th</sup> Cir. 2008), the Government negotiated a plea agreement with the well-heeled corporate defendant without conferring with the victims. When the Government's failure was challenged in the Fifth Circuit, the Fifth Circuit concluded that the Government had indeed violated the CVRA. The Fifth Circuit observed: "In passing the [CVRA], Congress made the policy decision-which we are bound to enforce-that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached." *Id.* at 394.

This Court is obligated to protect the rights of Petitioner. The CVRA directs that "[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the

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<sup>2</sup> On information and belief, roughly the same crimes were committed against several other young females. These victims, too, are in danger of losing their right to confer under the CVRA.

crime victim is afforded the rights described in [the CVRA].” 18 U.S.C. § 3771(b)(1). The CVRA also confers on crime victims the right to “assert the rights described in [the CVRA].” 18 U.S.C. § 3771(d)(1). Therefore, this Court has its own independent obligation to intercede and ensure that the Government respects the rights of Petitioner under the CVRA.

**CONCLUSION**

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: [REDACTED]  
United States Attorney's Office, [REDACTED] West Palm Beach,  
Florida 33401, this 7th day of July, 2008.



\_\_\_\_\_  
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