UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA

JANE DOE #1 and JANE DOE #2,
petitioners,

vs.

UNITED STATES OF AMERICA,
respondent.
_____/

ORDER DENYING GOVERNMENT'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION & ORDER LIFTING STAY OF DISCOVERY

THIS CAUSE is before the court on the government's motion to dismiss for lack of subject matter jurisdiction [DE 119], the petitioners' response in opposition [DE 127] and the government's reply [DE 147]. For reasons stated below, the court has determined to deny the motion.

I. Preface

The petitioners in this action seek to vacate a "non-prosecution agreement" ("the agreement") between the United States Attorney's Office for the Southern District of Florida (USAO/SDFL) and Jeffrey Epstein (Epstein) pursuant to the Crime Victims' Rights Act of 2004 (CVRA), 18 U.S.C. §3771. Under the agreement, Epstein agreed to (1) plead guilty to two then pending state court charges, solicitation of prostitution and solicitation of minors to engage in prostitution (a charge requiring him to register as a sex offender), in violation of Fla. Stat. §§796.07 and 796.03 and (2) make a binding recommendation for an eighteen-month sentence in county jail followed by twelve months of community control. In exchange for Epstein's performance, the USAO/SDFL agreed to (1) defer prosecution of related federal offenses against Epstein which had been

investigated by the Federal Bureau of Investigation (FBI) [1] in favor of prosecution by the State of Florida and (2) refrain from instituting criminal charges against certain alleged co-conspirators of Epstein. Further, the USAO/SDFL and Epstein expressed their "anticipat[ion]" that the "agreement will not be made part of any public record. " Additionally, the USAO/SDFL promised to provide Epstein advance notice before disclosing the agreement in response to a Freedom of Information Act request or compulsory process commanding disclosure [DE 48-5, pp. 2-15].

II. Factual Background

As outlined in their CVRA petition and supplemental pleadings filed in this action, petitioners allege the following sequence of events, which the court assumes to be true at the motion to dismiss stage:[2]

1. In 2006, the Federal Bureau of Investigation opened an investigation into allegations that Epstein had been inducing minor females to engage in commercial sexual activity over the preceding five year period of time. The United States Attorney's Office for the Southern District of Florida accepted the case for prosecution, and in June, 2007 and August, 2007, the FBI issued standard

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[1] The agreement enumerated certain federal offenses which the FBI and the United States Attorney's Office determined may have been committed by Epstein between 2001 through 2007, including conspiracy to use and the use of facilities of interstate commerce to persuade, induce or entice minor females to engage in prostitution in violation of 18 U.S.C. §2422(b); conspiracy to travel and travel in interstate commerce for purpose of engaging in illicit sexual conduct with minor females in violation of 18 U.S.C. § 2423(b); knowingly recruiting, enticing and obtaining persons under the age of eighteen years to engage in commercial sex acts in violation of 18 U.S.C. §1591(a)(1).

[2] *See Cole v. United States*, 755 F.2d 873 (11th Cir. 1985)(in reviewing motion to dismiss for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b), reviewing court must assume as true all "factual" allegations in the complaint).

victim notification letters to the petitioners Jane Doe No. 1 and Jane Doe No. 2.

2. On September 24, 2007, the USAO/SDFL entered into the above-described non-prosecution agreement with Epstein without first conferring with petitioners, and without alerting them to the existence of the agreement either before or promptly after the fact.[3] Petitioners claim they were kept in the dark about the agreement for roughly nine months - with no mention of the federal deal made in intervening correspondence and verbal communications between petitioners, the FBI and the local United States Attorney's Office.[4]

3. On June 27, 2008, the Assistant United States Attorney assigned to the Epstein case contacted petitioners' counsel to advise that Epstein was scheduled to plead guilty to certain state court charges on June 30, 2008, without mentioning that the anticipated plea in the state court was a term of the pre-existing non-prosecution agreement with the federal authorities.

4. On July 3, 2008, petitioners' counsel sent a letter to the USAO/SDFL advising that Jane

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[3]The government appears to concede the non-conferral, stating in its reply brief:

> While it may be true that the USAO-SDFL did not inform Petitioners and confer with them about the Non-Prosecution Agreement before it signed that agreement, the USAO-SDFL had conferred with both of the Petitioners about the potential prosecution of Epstein and was aware that Jane Doe #1 wished to see Epstein prosecuted and that, at that time, Jane Doe #2 had expressed open hostility toward any prosecution of Epstein.

[DE 147, page 31].

[4]The post-agreement communications are alleged to include a May 30, 2008 letter from the USAO/SDFL to a recognized victim advising that the case "is currently under investigation" and that "it can be a lengthy process and we request your continued patience while we conduct a through investigation." In addition, the USAO/SDFL allegedly sent a letter to the victims' counsel in June, 2008, asking them to submit a letter expressing the victims' views on why federal charges should be filed against Epstein -- without mentioning that the USAO/SDFL had already entered into the non-prosecution agreement.

Doe No. 1 wished to see federal charges brought against Epstein.

III. Procedural History

5. On July 7, 2008, Jane Doe No. 1 filed an "emergency" petition under the CVRA, contending that Epstein was currently involved in plea negotiations with the USAO/SDFL, which "may likely result in a disposition of the charges in the next several days." [CVRA Petition, DE 1, ¶3]. Claiming to be wrongfully excluded from those discussions, Jane Doe 1 asserted the violation of her CVRA rights to confer with federal prosecutors; to be treated with fairness; to receive timely notice of relevant court proceedings and to receive information about her right to restitution. As relief, she requested entry of an injunction directing the United States Attorney's Office to "comply with the provisions of the CVRA prior to and including any plea or other agreement with [Epstein] and any attendant proceedings."

6. On July 9, 2008, the government filed its response, disclaiming application of the CVRA to pre-charge negotiations with prospective defendants. Alternatively, the government contended it did use its "best efforts" to comply with CVRA notice and conferral requirements in its dealings with Jane Doe 1.

7. On July 11, 2008, the court entertained a hearing on the initial petition. During the course of that proceeding, the court allowed an amendment of the petition to include Jane Doe No. 2 as a complainant. The government acknowledged at that time that both petitioners met the definition of "crime victims" under the CVRA.

8. Over the course of the next eighteen months, the CVRA case stalled as petitioners pursued collateral civil claims against Epstein. The CVRA case was administratively closed on September 9, 2010, and then re-opened at petitioners' request on October 28, 2010. Since then, petitioners have submitted a "Motion for Finding of Violations of the CVRA" and a supporting statement of facts [DE 48].

9. On September 26, 2011, the court entered its order partially granting the petitioners' motion for a finding of violations of the CVRA, recognizing that the CVRA can apply before formal charges are filed against an accused. The court deferred ruling on the merits of the motion pending development of a full factual record, and authorized petitioners to conduct limited discovery in the form of requests for production of documents and requests for admissions directed to the U.S. Attorney's Office, with leave for either party to request additional discovery as appropriate [DE 99].

10. On November 8, 2011, the government moved to dismiss the entire CVRA proceeding for lack of subject matter jurisdiction [DE 119], and successfully sought a stay of discovery pending resolution of that motion [DE 121, 123]. In its current motion to dismiss, the government first contends that "even assuming that the CVRA was violated as petitioners claim, petitioners lack standing to seek redress for those violations" because the remedy petitioners seek- - a vacating or re-opening of the non-prosecution agreement – is not a legally viable option at this juncture. Alternatively, the government argues that petitioners' CVRA claims are not "constitutionally ripe" because petitioners have a present ability to confer with prosecutorial authorities in other jurisdictions, namely the United States Attorney's Offices of the District of New Jersey and New York, which share jurisdiction and venue over the federal offenses potentially chargeable against

Epstein for crimes committed in this District. Thus, the government asserts that it is premature and speculative for petitioners to bring a claim for the prospective denial of CVRA conferral rights, rendering their current claims constitutionally unripe. These arguments are addressed, in turn, in the discussion which follows.

IV. Discussion

"[T]he core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992). To satisfy Article III's minimum standing requirements, a plaintiff must generally show (1) it has suffered an injury in fact – i.e. the invasion of a legally protected interest that is concrete and particularized, as well as actual or imminent; (2) the injury is fairly traceable to the challenged action of the defendant, and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Id.* at 560-561.

Here, the government contends petitioners are unable to satisfy the third prong of this test on the theory it is legally impossible for petitioners to obtain the relief which they seek - the vacating of the non-prosecution agreement as a predicate to the full and unfettered exercise of their CVRA conferral rights – and that they are therefore unable to show a likelihood that the CVRA injury alleged will be redressed by a favorable decision in the case. More specifically, the government contends that rescission of an otherwise valid plea or non-prosecution agreement (i.e. an agreement containing no illegal terms or conditions) is prohibited by constitutional Due Process guarantees - even if entered in violation of the CVRA. Alternatively, the government argues that even if the court could set the agreement aside and order the government to confer with petitioners before arriving at a final prosecutorial decision regarding Epstein, the gesture would be futile. The

government claims that the United States Attorney's Office for the Southern District of Florida would still be legally bound to abide by the terms of the September 24, 2007 agreement,[5] eliminating the possibility that exercise of petitioners' conferral rights under the CVRA might lead to a different federal charging outcome.

The court disagrees. As a threshold matter, the court finds that the CVRA is properly interpreted to authorize the rescission or "re-opening" of a prosecutorial agreement - including a non-prosecution arrangement – reached in violation of a prosecutor's conferral obligations under the statute. Clearly, the statute contemplates such a result where, under the "enforcement and limitations" provision, § 3771(d)(5), the conditions under which "[a] victim may make a motion to re-open a plea or sentence" in order to remedy a failure to afford a right provided under the CVRA are specifically prescribed. If the government's theory was correct, i.e. that no otherwise valid plea may be disturbed, notwithstanding a CVRA violation, as a matter of constitutional due process guarantees -- the statutory prescriptions for "re-opening" a plea or sentence reached in violation of the CVRA would effectively be nullified. The court will not embrace such a strained construction of the statute.

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[5] The government acknowledges that the USAO/SDFL has been recused by the Department of Justice for prospective responsibility of any further criminal investigation or potential prosecution of Epstein relating to his alleged sexual activities with minor females in the Southern District of Florida, and that responsibility for any future prosecutorial action arising out of Epstein's alleged criminal activity in this district has now been assigned to the United States Attorney's Office for the Middle District of Florida [Government Motion to Dismiss, page 8, n. 8][DE 119]. However, it contends, without explanation, that the September 24, 2007 non-prosecution agreement would still constrain the Middle District of Florida United States Attorney's Office "due to that office's recusal-based derivative prosecutorial responsibilities in the Southern District of Florida" [Government Motion to Dismiss, page 12, n. 13][DE 119].

Although this particular statutory enforcement provision expressly refers to the re-opening of a "plea" or "sentence" – events falling in the post-charge stage of criminal proceedings – the court concludes that the statute is properly interpreted impliedly to authorize a "re-opening" or setting aside of pre-charge prosecutorial agreements made in derogation of the government's CVRA conferral obligations as well.

First, the court concludes that the "reasonable right to confer ... in the case " guaranteed by the CVRA at §3771(a)(5) is properly read to extend to the pre-charge stage of criminal investigations and proceedings, certainly where -- as here-- the relevant prosecuting authority has formally accepted a case for prosecution. The case law and legislative history of the statute support such an expansive reading of the statutory mandate. *See United States v. BP Products North America, Inc.*, 2008 WL 501321 at * 11-15 (S.D. Tex. 2008)(unpub), citing 150 Cong. Rec. S2460, S4268 (daily ed. Apr 22, 2004)(statement of Senator Feinstein)(explaining that the right to confer was "intended to be expansive," applying to "any critical state or disposition of the case") and *United States v. Heaton*, 458 F. Supp. 2d 1272 (D. Utah 2006)(government motion to dismiss charge of using facility of interstate commerce to entice minors to engage in unlawful sexual activity would not be granted until government consulted with victim); *United States v. Ingrassia,* 2005 WL 2875220 at *17 n. 11 (Senate Debate supports view that contemplated mechanism for victims to obtain information on which to base their input was conferral with prosecutor concerning any critical stage or disposition of the case), and United States Department of Justice, Attorney General Guidelines for Victim and Witness Assistance 30 (2005)("Responsible officials should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations.")

In short, there is no logical reason to treat a "non-prosecution agreement" which the government employs to dispose of contemplated federal charges any differently from a "plea agreement" employed to dispose of charged offenses in interpreting remedies available under the CVRA. Where the statute expressly contemplates that a "plea" may be set aside if entered in violation of CVRA conferral rights, it necessarily contemplates that a "non-prosecution" agreement may be set aside if entered in violation of the government's conferral obligations.

Thus, in their petition and supplemental pleadings, Jane Doe 1 and 2 have identified a remedy which is likely to redress the injury complained of – the setting aside of the non-prosecution agreement as a prelude to the full unfettered exercise of their conferral rights *at a time that will enable the victims to exercise those rights meaningfully.* *See BP Products North America, supra* at *14 ("Section 3771(c)(1) requires government officials to use best efforts to give victims notice of their rights under subsection (1), including the right to confer, at a time that will enable the victims to exercise these rights meaningfully"). Thus, petitioners do not lack constitutional standing because of an inability to identify a remedy for their alleged injury.

Nor is the court persuaded by the government's "futility" argument, derived from its stated perception that the United States Attorney's Office for the Southern District of Florida (and derivatively the United States Attorney's Office for the Middle District of Florida) would be constrained to honor the terms of the September 24, 2007 agreement even if the court were to set it aside and order the government to confer with the victims before reaching a final charging decision.

The fallacy with this strand of the government's standing argument derives from its misidentification of the alleged injury sought to be remedied in the case: The victims' CVRA injury is *not* the government's failure to prosecute Epstein federally – an end within the sole control of the government. Rather, it is the government's failure to confer with the victims before disposing of contemplated federal charges. This injury can be redressed by setting aside the agreement and requiring the government to handle its disposition of the Epstein case in keeping with the mandates of the CVRA, including the pre-charge conferral obligations of the government.

The court rejects the notion that a victim must show the likelihood or at least a possibility of a prosecution as a pre- requisite to demonstrating standing for redress of conferral rights under the CVRA - which is the fundamental premise of the government's futility argument. What the government chooses to do after a conferral with the victims is a matter outside the reach of the CVRA, which reserves absolute prosecutorial discretion to the government. 18 U.S.C. §3771 (d)(6)("Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction").

While the law of standing does require, as a general proposition, that a federal plaintiff show some logical nexus between the asserted injury and the claim sought to be adjudicated (i. e. a likelihood that the relief sought is likely to vindicate the injury), *Linda R.S. v. Richard D.,* 410 U.S. 614, 93 S. Ct. 1146, 35 L.Ed. 2d 536 (1973), these requirements apply only in the *absence* of a statute expressly conferring standing. *Id.* at 617 n. 3 ("[] Congress may enact statutes creating leal rights, the invasion of which creates standing, even though no injury would exist without the statute"), citing *Trafficante v. Metropolitan Life Ins. Co.,* 409 U.S. 205, 212, 93 S. Ct. 364, 368, 34 L.Ed. 2d 415 (1972). It is apparent, through the passage of the CVRA, that Congress has enacted

a statute expressly conferring certain legal rights upon "crime victims," the invasion of which creates standing to seek relief under the CVRA, even though no cognizable injury would exist without the statute. It is also apparent that the petitioners in this case meet the definition of "crime victims" conferred with standing to assert the subject CVRA claims.

The CVRA at §3771(e) defines a "crime victim" as " a person directly and proximately harmed as a result of the commission of a Federal offense." In the Eleventh Circuit, a two-part test is employed to determine whether an individual qualifies as a crime victim under this statute: First, the court must identify the behavior constituting the "commission of a Federal offense." Second, the court must identify the direct and proximate effects of that behavior on parties other than the United States. *In re Stewart*, 552 F.3d 1285 (11th Cir. 2008). If the criminal behavior causes a party direct and proximate harmful effect, the party is considered a victim under the CVRA. *Id* at 1288.

The non-prosecution agreement at issue refers to five distinct federal sex offense crimes involving minors contemplated against Epstein, the direct and proximate harmful effects of which were allegedly visited upon the petitioners, plainly qualifying them as crime victims within the meaning of the CVRA. As such, they have standing to assert rights under the CVRA, as they have done in this case. *See e.g. United States v. Thetford*, ___ F. Supp. 2d ____, 2013 WL 1309851 (N.D. Ala. 2013). Presented with these claims, the court is obligated to decide whether, as crime victims, petitioners have asserted valid reasons why the court should vacate or re-open the non-prosecution agreement reached between Epstein and the USAO/SDFL. Whether the evidentiary proofs will entitle them to that relief is a question properly reserved for determination upon a fully

developed evidentiary record. [6]

In sum, the petitioners' standing is expressly conferred by the CVRA, which limits its protections to "crime victim(s)," defined as "person[s] directly and proximately harmed as a result of the commission of a Federal offense ..." 18 U.S.C. §3771(e). The court finds and the government does not dispute that petitioners are persons "directly and proximately harmed" as the result of federal offenses allegedly committed by Epstein. This concludes the proper confines of the standing inquiry.

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[6] Recognizing the need for a developed evidentiary record, the court accordingly rejects the government's related "estoppel" argument as an independent attack on petitioners' constitutional standing to sue. In this vein, the government argues that the petitioners are legally precluded from seeking rescission of the non-prosecution agreement under any scenario because they had, but forfeited, an opportunity to press for rescission at an early stage in these CVRA proceedings-- *before* Epstein performed his part of the bargain (i.e. before he served jail time on the two state charges). Due to petitioners' counsel's initial "indecision" on whether to seek rescission, as expressed at an earlier hearing held in August 2008, the government argues that "[e]ven assuming arguendo that the CVRA would allow a victim to seek rescission of a non- prosecution agreement between the government and an uncharged individual, petitioners' action would legally preclude them from obtaining such a remedy in these proceedings."

Whether petitioners are estopped from seeking vindication of their CVRA conferral rights via the vehicle of rescission or a "re-opening" of the non-prosecution agreement due to an earlier litigation posture assumed in this case-- as the government contends -- implicates a fact-sensitive equitable defense which must be considered in the historical factual context of the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a fait accompli*. As with threshold questions going to the existence of the alleged CVRA violations, questions pertaining to this equitable defense are properly left for resolution after development of a full evidentiary record.

B. Ripeness

The "ripeness doctrine," under which a plaintiff lacks standing if his claim is not ripe, aims to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies. *Pashby v. Delia*, 709 F.3d 307 (4th Cir. 2013); *Brennan v. Roman Catholic Diocese of Syracuse New York, Inc.*, 322 Fed. Appx. 852, 2009 WL 941765 (11th Cir. 2009)(unpub).

In this case, the government contends that the petitioners' CVRA conferral claims are not constitutionally ripe because petitioners do not allege they have sought and have been denied conferral with all federal prosecutorial authorities having potential jurisdiction over Epstein's federal sex crimes in the Southern District of Florida. Specifically, the government argues that the United States Attorney's Office of the Districts of New Jersey and New York share jurisdiction with the United States Attorney's Office for the Southern District of Florida over federal sex offenses allegedly committed by Epstein in the Southern District of Florida, and that petitioners' CVRA conferral claims are not ripe unless and until all other relevant prosecutorial authorities refuse or fail to confer with them regarding federal offenses chargeable against Epstein.

The court summarily rejects this argument. Petitioners have alleged a violation of their CVRA conferral rights against a federal prosecutorial authority which formally accepted the case against Epstein for prosecution. Whether conferral rights do or do not exist with prosecutorial authorities in some other jurisdiction does not detract from the ripeness of this claim against a local federal prosecutorial authority which did actively investigate potential charges against Epstein in this district and formally resolved those charges with the challenged non-prosecution agreement at

issue in this action.

III. Conclusion

Based on the foregoing, it is **ORDERED AND ADJUDGED**:

1. The government's motion to dismiss for lack of subject matter jurisdiction [DE 119] is **DENIED**.

2. The stay of discovery pending ruling on the government's motion to dismiss entered November 8, 2011 [DE# 123] is **LIFTED**.

DONE AND ORDERED in Chambers at West Palm Beach, Florida this 18th day of June, 2013.

[redacted]
United States District Judge

cc. All counsel

_ SEALED
✓ NOT SEALED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA

JANE DOE #1 and JANE DOE #2,
petitioners,

vs.

UNITED STATES OF AMERICA,
respondent.
_____/

ORDER GRANTING PETITIONERS' MOTION TO REQUIRE GOVERNMENT TO FILE REDACTED PLEADINGS IN THE PUBLIC COURT FILE [DE 150]
&
ORDER DIRECTING CLERK TO UNSEAL THE GOVERNMENT'S RESPONSE IN OPPOSITION TO THE MOTION [DE 156]

THIS CAUSE is before the court on the petitioners' motion for entry of order requiring the government to file redacted pleadings in the open court file [DE 150], together with the government's sealed response in opposition [DE 156] . For reasons discussed below, the court has determined to grant the motion and order the parties to place all written submissions in this proceeding in the open court file, with limited exception for identifying victim information and evidentiary grand jury materials.

There is a presumptive right of public access to pretrial motions of a non-discovery nature, whether preliminary or dispositive, and the material filed in connection with such motions. *Romero v. Drummond Co.,* 480 F.3d 1234 (11th Cir. 2007), citing *Leucadia, Inc. v. Applied Extrusion Technologies, Inc.,* 998 F.2d 157 (3d Cir. 1993); *United States v Amodeo*, 71 F.3d 1044 (2d Cir. 1995). The common law right of access to judicial proceedings, including the right to inspect and copy public records and documents, is not absolute, however. It does not apply to discovery, and even when it does apply, may be overcome by a showing of good cause, which requires "balanc[ing]

the asserted right of access against the other party's interest in keeping the information confidential." *Romero* at 1246, citing *Chicago Tribune Co. v. Bridgestone/Firestone, Inc.*, 263 F.3d 1304, 1309 (11th Cir. 2001). In balancing the competing interests, the court appropriately considers "whether allowing access would impair court functions or harm legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents. *Id.*

In this case, the government identifies the secrecy of grand jury proceedings, protected against disclosure under Fed. R. Crim. P. 6(e)(6) as good cause for the filing of its submissions under seal.[1] Specifically, the government contends that the submission under seal of its (i)original memorandum in support of motion to dismiss; (ii) reply memorandum in support of motion to dismiss for lack of subject mater jurisdiction and (iii) motion to stay discovery pending resolution of motion to dismiss was appropriately made in conformity with a November 8, 2011 (sealed) order permitting limited disclosure of grand jury matters in this proceeding issued by United States District Judge Donald Middlebrooks, the district judge before whom the original grand jury matter was filed. In addition, the government relies on Fed. R. Crim P. 6(e)(2)(B), prohibiting certain

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[1] Rule 6(e)(6) provides that "[r]ecords, orders and subpoenas relating to grand-jury proceedings must be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a matter occurring before a grand jury." Information is protected from disclosure under Rule 6(e) if disclosure would tend to reveal some secret aspect of the grand jury's investigation, such matters as identities or addresses of witnesses or jurors, the subject of grand jury testimony, the strategy or direction of the investigation, the deliberations or questions of jurors and the like. *In re Motions of Dow Jones & Co*, 142 F.3d 496, 500 (D. C. Cir.), *cert. denied*, 525 U.S. 820 (1998).

individuals (including prosecutors) from disclosing "a matter occurring before the grand jury" as authority for its submission of the above documents under seal.

The November 8, 2011 order refers to certain collateral evidence gathered in Federal Grand Jury Proceeding 05-02 and Federal Grand Jury Proceeding 07-103 (WPB) [DE 121-1, page 15], matters having little, if any, relevance to the issues framed in this proceeding under the Crime Victims Rights Act. The government's insertion of passing references to this material in its pleadings before this court does not justify the government's wholesale submission of these filings under seal. In the first instance, it is unlikely that release of the information referenced in the November 8 order would compromise the strategy of ongoing federal grand jury proceeding at this juncture.[2]

However, the court need not address whether grand jury secrecy interests still attach because the petitioners agree to the filing of redacted documents as a method of protecting any possible grand jury secrecy interests while otherwise making public the government's filings in this proceeding. The court agrees that this is a less onerous alternative to sealing which is appropriately employed in this case. *See e.g. In re Grand Jury Proceedings*, 417 F.3d 18 (1st Cir. 2005); *In re Grand Jury Proceedings*, 616 F.3d 1172 (10th Cir. 2010).

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"Grand jury secrecy is not unyielding" when there is no secrecy left to protect. *In re Grand Jury Subpoena, Judith Miller*, 438 F.3d 1138, 1140 (D.C. Cir. 2006). Rule 6(e)(6) requires that records, orders and subpoenas relating to grand jury proceedings remain sealed only "to the extent and as long as necessary to prevent the unauthorized disclosure" of such matters. Thus, when once-secret grand jury material becomes "sufficiently widely known," it may "los[e] its character as Rule 6(e) material." *In re North*, 16 F.3d 1234 (D. C. Cir. 1994).

It is accordingly **ORDERED AND ADJUDGED**:

1. The petitioners' motion to require the government to file all pleadings and other submissions in the open court file, with redactions limited only to references to the above-described grand jury evidence and identifying information pertaining to victims [DE 150] is **GRANTED.**

2. Within **TEN (10) DAYS** from the date of entry of this order, the government shall redact out any references to the grand jury material in question from its various pleadings and other submissions in this proceeding, signifying the placement of any redactions with highlighted double brackets, e.g. "[[ ]]," or black-out marker, and shall then re-file the same in the public portion of the court file. Similarly, the government shall redact out any reference to the identity of the crime victims, by name or initial, before placement of the substituted pleadings in the open court file.

3. The Clerk of Court is further directed to unseal and place in the public portion of the court file the government's "Opposition to Petitioners' Motion Requesting an Order Directing the Government to File Redacted Pleadings in the Public Court File" [DE 156], which submission contains no descriptive references to the grand jury material in question.

DONE AND ORDERED in Chambers at West Palm Beach, Florida this 18th day of June, 2013.

[redacted]
United States District Judge

cc. All counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 08-80736-CIV-MARRA/JOHNSON

JANE DOE 1 AND JANE DOE 2,

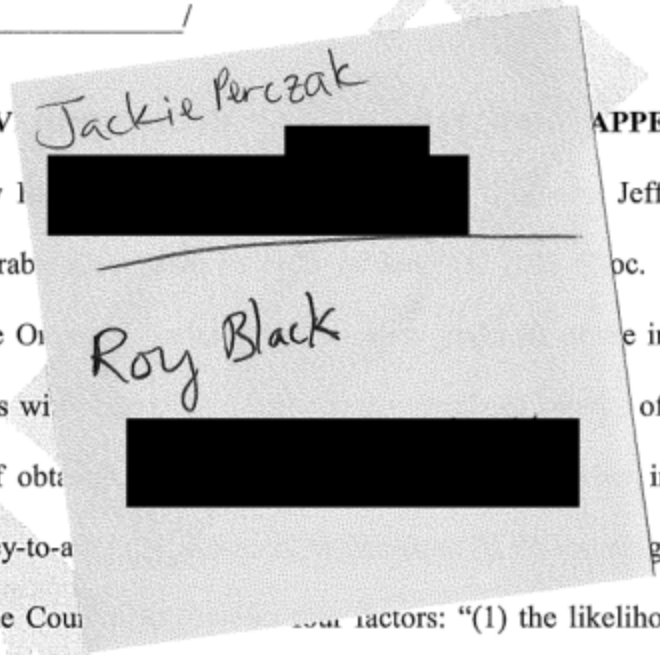
Plaintiffs

v.

UNITED STATES OF AMERICA,

Defendant

_____/



INTERV APPEAL

Intervenors Roy l Jeffrey Epstein hereby request that this Honorab pc. 188), denying their Motion for a Protective O e intervenor attorneys' written communications wi of Florida made with the specific purpose of obt investigation of Mr. Epstein through attorney-to-a g whether to grant a stay pending appeal, the Cou factors: "(1) the likelihood that the moving party will ultimately prevail on the merits of the appeal; (2) the extent to which the moving party would be irreparably harmed by denial of the stay; (3) the potential harm to opposing parties if the stay is issued; and (4) the public interest." *Florida Businessmen for Free Enterprise v. City of Hollywood*, 648 F.2d 956, 957 (11th Cir. 1981). *See, e.g., In re Federal Grand Jury Proceedings (FGJ 91-9), Cohen*, 975 F.2d 1488, 1492 (11th Cir. 1992). Those factors are amply satisfied in this case: there is a strong likelihood that intervenors will prevail on appeal (or at a minimum,

they have a "substantial case on the merits," and the "harm factors" militate in favor of granting a stay, *Merial Ltd. v. Cipla Ltd.*, 426 Fed.Appx. 915 (11th Cir. 2011), *citing Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)); they will be immediately and irreparably harmed by the disclosure of the communications at issue; the plaintiffs will suffer no harm from the granting of a stay until these critically important issues can be resolved by the Eleventh Circuit; and to the extent that the public has an interest in the matter, it would favor considered appellate resolution of the issues presented prior to the release of the communications at issue.

The Court's order is the first decision anywhere, insofar as undersigned counsel are aware, which has ordered disclosure to third party civil litigants of private and confidential communications between attorneys seeking to resolve a criminal matter favorably to their clients and government prosecutors. While framed as a disclosure order in this particular case, the Court's decision, which drastically reshapes the landscape of criminal settlement negotiations and sets at nought expectations of privacy, confidentiality, and privilege on which criminal defense attorneys have reasonably relied for many decades in negotiating with government attorneys on behalf of their clients, has potentially far-reaching and, intervenors contend, seriously deleterious consequences for the ability of attorneys nationwide to effectively represent their clients through open and candid communication with government counsel. The decision will have a predictably chilling effect on attorneys around the country, if they can no longer expect privacy and confidentiality in their written communications with prosecutors aimed at reaching a negotiated resolution to the case. Such communications often necessarily involve explicit or implicit admissions regarding their client's conduct – what he did, what he did not do, what he knew, what he intended, and the like – and the attorney's opinions regarding acceptable

resolutions of the matter, admissions and opinions which attorneys in many cases will be loath to commit to written form if they may be subject to later disclosure to civil adversaries of the attorney's client. This case is far from *sui generis* – the cases are legion in which there is related civil litigation seeking damages or other recovery from an individual who was the subject of criminal investigation or prosecution and in which, after becoming aware of this Court's decision, plaintiffs will begin clamoring for access to communications between defendants' counsel and prosecuting authorities in the belief that it may help support their civil case against the defendant. In addition to the stay factors addressed below, the importance of these issues for the functioning of the criminal justice system counsels in favor of granting the requested stay.

Intervenors have standing under *Perlman v. United States*, 247 U.S. 7 (1918), to pursue an interlocutory appeal of the Court's order, and questions of privilege and confidentiality asserted by non-parties to the litigation are paradigmatic examples of circumstances in which interlocutory appeals are allowed, yet the value of that appeal will be severely undercut, if not destroyed entirely, if a stay pending appeal is not granted. Forced disclosure of confidential or privileged communications cannot be undone on appeal; the protections afforded the documents will have been irretrievably lost before the appellate court can pass on the matter, to the intervenors' irremediable prejudice. For all the reasons addressed herein, the Court should grant the requested stay.

I. LIKELIHOOD OF SUCCESS ON THE MERITS.[1]

[1] Intervenors incorporate by reference herein the arguments set forth in their Motion for a Protective Order and Opposition to Motions of Jane Doe 1 and Jane Doe 2 for Production, Use, and Disclosure of Settlement Negotiations (Doc. 160); Supplemental Briefing of Intervenors Roy Black, Martin Weinberg, and Jay Lefkowitz in Support of Their Motion for a Protective Order Concerning Production, Use, and Disclosure of Plea Negotiations (Doc. 161); Intervenor Jeffrey Epstein's

A. The Applicability of Rule 410.

Any assessment of the merits of the intervenors' contentions must begin with an understanding of the central role of plea bargaining and settlement negotiations in our criminal justice system and the Sixth Amendment protections which surround them. "Plea bargains are . . . central to the administration of the criminal justice system" because ours is "a system of pleas, not a system of trials":

> ninety-four percent of state convictions are the result of guilty pleas. The reality is that plea bargains have become so central to the administration of the criminal justice system that defense counsel have responsibilities in the plea bargain process, responsibilities that must be met to render the adequate assistance of counsel that the Sixth Amendment requires in the criminal process at critical stages. Because ours "is for the most part a system of pleas, not a system of trials," it is insufficient simply to point to the guarantee of a fair trial as a backstop that inoculates any errors in the pretrial process.

Lafler v. Cooper, 132 S. Ct. 1376, 1388 (2012); Missouri v. Frye, 132 S. Ct. 1399, 1407 (2012).

In Lafler and Frye, the Supreme Court ruled that the Sixth Amendment right to effective assistance of counsel "extends to the plea bargaining process" and that defendants are entitled to "the effective assistance of competent counsel" during plea negotiations. Lafler, 132 S. Ct. at 1384; Frye, 132 S.Ct. at 1407-09 (2012). Under Lafler and Frye, counsel have an ongoing obligation to provide effective representation in plea bargaining and to engage in communications with the client and the prosecutor to discharge that obligation. Even before formal charges are brought, counsel

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Motion for a Protective Order and Opposition to Motions of Jane Doe 1 and Jane Doe 2 for Production, Use, and Disclosure of Plea Negotiations (Doc. 162); Notice of Supplemental Authority of the United States Supreme Court (Doc. 163); and Reply in Support of Supplemental Briefing By Limited Intervenors Black, Weinberg, Lefkowitz, and Epstein (Doc. 169).

already addressed the issue in Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 and did not see fit to recognize a privilege for plea negotiation communications. Neither the Rules of Evidence nor the Rules of Criminal Procedure, however, have ever dealt with specifying the privileges which will and will not be recognized; instead, they leave that function to the courts under Rule 501. Nothing in Rules 11(f) or 410 suggest that Congress rejected (or even thought about) a privilege for attorney settlement/plea negotiation communications when framing those provisions. Rules 11(f) and 410 deal only with what is admissible; they do not purport to extend to what is discoverable. Rule 410 begins with the assumption that a litigant is in possession of plea negotiation materials, and thus the Rule describes the circumstances in which those materials may either be admitted or excluded from consideration at trial. It says nothing, however, about whether a nonparticipant in the plea negotiations is entitled to obtain those materials in discovery in the first instance. That question must be answered by reference to Fed. R. Civ. P. 26, which refers to Federal Rule of Evidence 501, which "empower[s] the federal courts to 'continue the evolutionary development of [evidentiary] privileges.'" *Adkins v. Christie*, 488 F.3d 1324, 1328 (11th Cir. 2007), quoting *Trammel v. United States,* 445 U.S. 40, 47 (1980).

The "central feature" of Rule 410 "is that the accused is encouraged candidly to discuss his or her situation in order to explore the possibility of disposing of the case through a consensual arrangement." United States v. Herman, 544 F.2d 791, 797 (5th Cir. 1977). The Rule is derived from "the inescapable truth that for plea bargaining to work effectively and fairly, a defendant must be free to negotiate without fear that his statements will later be used against him." Id. at 796. The legislative history, too, "shows that the purpose of Rule 410 and Rule 11(e)(6) is to permit the

The "central feature" of Rule 410 "is that the accused is encouraged candidly to discuss his or her situation in order to explore the possibility of disposing of the case through a consensual arrangement." *United States v. Herman*, 544 F.2d 791, 797 (5th Cir. 1977). The Rule is derived from "the inescapable truth that for plea bargaining to work effectively and fairly, a defendant must be free to negotiate *without fear that his statements will later be used against him*." *Id.* at 796 (emphasis added). Thus, the most reasonable construction of Rule 410 is that all plea discussions in this case were about offenses for which there was no plea of guilty, and therefore Rule 410 facially and fully applies. Any other reading would render Rule 410 ambiguous and would violate Mr. Epstein's Fifth Amendment rights.

> The rule's central feature is that the accused is encouraged candidly to discuss his or her situation in order to explore the possibility of disposing of the case through a consensual arrangement. Such candid discussion will often include incriminating admissions . . . To allow the government to introduce statements uttered in reliance on the rule would be to use the rule as a sword rather than a shield. This we cannot allow; the rule was designed only as a shield.

Id. at 797. "Where an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress . . . The elementary rule is that every reasonable construction must be resorted to, in order to save a statute from unconstitutionality." *DeBartolo Corp. v. Florida Gulf Coast Trades Council*, 485 U.S. 568, 575 (1988).

B. Recognition of a Privilege Under Rule 501.

The Court rejected intervenors' contention that the Court should recognize a privilege for communications in the course of settlement/plea negotiations on the ground that Congress has

The Court also rejected the applicability of Rule 410 because the communications between Epstein's counsel and the government led to Epstein's plea of guilty in state court. In the sole case cited by the Court for this proposition, *United States v. Paden*, 908 F.2d 1229 (5th Cir. 1990), the defendant pled guilty to *federal* charges pursuant to his plea agreement. That Mr. Epstein entered into a plea in state court to state offenses is irrelevant to the Rule 410 analysis. The plain meaning of Rule 410(4) is that the defendant must enter a plea in *federal* court relating to the *federal* offenses under investigation. If Congress had intended to include state court pleas in subsection (4), it would have expressly done so, as it did in subsection (3). There, Congress expressly provided for change-of-plea proceedings in federal court and "comparable state procedures." FED.R.EVID. 410(3). Congress did not provide for state court pleas in subsection (4) of the rule, and "where Congress includes particular language in one section of a statute but omits it in another . . . it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Keene Corp. v. United States*, 508 U.S. 200, 208 (1993).

Even when plea negotiations result in a guilty plea, not all statements made during those negotiations are thereby subject to disclosure. The plain meaning of Rule 410 is that any disclosure of plea negotiations must relate to the plea that was actually entered. The broad reading adopted by the Court would frustrate the purpose and policy of Rule 410. In this case, there was no plea to the offenses that the government was investigating or to the matters discussed in the plea negotiation letters and emails. There was never a federal plea that closed out all the federal issues that were the subject of the continuing exchanges of letters and memos in which Mr. Epstein's counsel addressed the reasons why Mr. Epstein should not be federally prosecuted.

States v. Adelman, 458 F.3d 791 (8th Cir. 2006), also involved statements made by the defendant to federal prosecutors; the defendant's statements were made in meetings at which she was told, according to the government, that she was a "prime suspect" in criminal wrongdoing and that any statements she made could be used against her. *Id.* at 805. In *United States v. Hare*, 49 F.3d 447 (8th Cir. 1995), like the other two cases, the statements at issue were made by the defendant to prosecutors voluntarily and unconditionally in the unilateral hope of bettering his chances. *Id.* at 451.

Under the Court's ruling, the attorneys for a person under federal criminal investigation may never enter into negotiations with the government with the primary aim of avoiding federal indictment entirely, no matter how serious and good faith those negotiations, without risking that anything they say on behalf of their clients in seeking to arrive at a negotiated settlement may in the future be used, either by the government or by adversarial third parties, to the severe detriment of their client. This is not and cannot be the law and is certainly unsound policy, and there is a substantial likelihood that the Eleventh Circuit will agree. Indeed, the Court's opinion creates an incentive for attorneys *not* to do precisely what *Hickman v. Taylor*, 329 U.S. 495 (1947), was intended to encourage attorneys to do: reduce facts, ideas, and opinions to writing. A return to the days of settlement/plea negotiations conducted through oral, rather than written, communications, which the Court's decision will encourage whenever the progress of the negotiations or the attainment of the desired objective require the attorney to communicate information which, if disclosed in another context, would be detrimental to the client's interests would serve no one's interests – not the defendant's, not the government's, not the judicial system's, and not the public's.

Contrary to the result reached by this Court, the settlement negotiations at issue here lie well within the heartland of Rule 410's prohibition against the admissibility of plea negotiations "against the defendant who was a participant in the plea discussions" "in any civil or criminal proceeding". The cases on which the Court relied in concluding that the settlement negotiations at issue here do not fall within Rule 410 are uniformly inapposite and do not support the proposition that the settlement negotiations in this case are not subject to the protections of Rule 410. *United States v. Merrill*, 685 F.3d 1002, 1013 (11th Cir. 2012), concerned statements made by the defendant himself in informal meetings with the prosecution prior to his scheduled grand jury testimony, *see id.* at 1007-08. The only discussions of leniency involved the government's generalized statement to the defendant that if he cooperated, the government would recommend leniency when he was sentenced. *Id.* Notably, the Court's ruling that the district court had not erred in refusing to suppress the defendant's statements rested on its conclusion that, given the circumstances, the defendant could not have reasonably believed that he was engaged in plea negotiations. *Id.* at 1013. The case does not stand for the general proposition advanced by the Court that settlement discussions in advance of the return of an indictment categorically do not fall within Rule 410.[2] Moreover, the circumstances present here were dispositively different from those in *Merrill*. Here, the communications were made attorney-to-attorney under circumstances which leave no room to doubt that the parties were engaged in serious negotiations to resolve the federal criminal investigation of Epstein. *United*

[2] In any event, there was, as the Court notes elsewhere in its opinion, an indictment pending in the state courts which was related to the matters under federal investigation and which was addressed during the settlement negotiations between intervenors and federal prosecutors. Moreover, there was an active federal grand jury investigation ongoing at the time of the settlement negotiations, further differentiating this case from the cases relied on by the Court.

representing a client under federal investigation have an obligation to secure the best possible outcome for their clients, whether it be one which results, as here, in no charges being brought by the prosecuting authority conducting the criminal investigation or the bringing of fewer, or less serious, charges against the client. Defense counsel cannot fulfill their professional obligations to their clients if they must temper their communications with the prosecution in the criminal settlement negotiation context for fear that disclosures made now will later enure to the clients' severe detriment in other litigation contexts. Defendants and people under criminal investigation would not engage in plea negotiations and waive their Fifth Amendment rights if they believed that statements made during those negotiations could be used against them later in litigation with third parties. Candid discussions simply cannot take place if defendants or persons under criminal investigation fear that statements made during negotiations can be divulged to third parties in other proceedings and used to harm them, send them to prison, or invalidate their bargains years after they have served prison sentences and suffered all the consequences of their deals. Few if any lawyers would engage in candid and open discussions with a prosecutor if their statements could later be used against their clients. The professional, ethical, and constitutional obligations of attorneys representing persons under investigation for, or charged with, crimes are terribly at odds with any ruling which exposes those negotiations to public scrutiny (or to the scrutiny of later litigation adversaries of the client) and makes them admissible in evidence to be used as ammunition to harm the clients, yet that is the very result which this Court's Order enshrines. The strong policy considerations mitigating against the result reached by the Court weigh heavily in favor of the likelihood of intervenors' success on appeal.

unrestrained candor which produces effective plea discussions between the . . . government and the . . . defendant." Committee on Rules of Practice And Procedure of The Judicial Conference of The United States, Standing Committee On Rules of Practice And Procedure, 77 F.R.D. 507 (February 1978) (emphasis added). For these reasons, criminal defense lawyers negotiate with prosecutors in an environment of confidentiality, fostered by the protections of Rules 410 and 11. These rules encourage a process of searching and honest disclosures, and parties expect that their negotiations, and the information they exchange, will be protected from future use by an adversary. And because criminal defense lawyers are required, by ethical and constitutional considerations, to engage in plea negotiations to discharge their duty to represent the client's best interest, they do so with the well-founded expectation that communications made during those negotiations will not later be used to harm the client.

The Supreme Court has recognized that "Rules 410 and 11(e)(6) 'creat[e], in effect, a privilege of the defendant . . . .'" Mezzanatto, 513 U.S. at 204.This privilege encourages disposition of criminal cases by plea agreement, which is essential to the administration of justice:

> The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called "plea bargaining," is an essential component of the administration of justice. Properly administered, it is to be encouraged. If every criminal charge were subjected to a full-scale trial, the states and the federal government would need to multiply by many times the number of judges and court facilities.

Santobello v. New York, 404 U.S. 257, 260 (1971). "[T]he fact is that the guilty plea and the often concomitant plea bargain are important components of this country's criminal justice system. Properly administered, they can benefit all concerned." Blackledge v. Allison, 431 U.S. 63, 71 (1977). Those sentiments are just as true today. The Bureau of Justice Statistics of the

Department of Justice reports that in 2005, 96.1% of federal criminal cases were resolved by way of a plea bargain. www.ojp.usdoj.gov/bjs/pub/html/fjsst/2005/fjs05st.htm. That today's justice system depends on plea negotiations is a monumental understatement.

Whether to negotiate a plea or contest a criminal charge "is ordinarily the most important single decision in any criminal case." Boria v. Keane, 99 F.3d 492 (2d Cir. 1996). In the age of the Sentencing Guidelines, with the severe sentences called for in federal criminal cases, minimum mandatories, and the abolition of parole, engaging in meaningful and effective plea negotiations is perhaps one of the most important roles of a criminal defense attorney. Today, the lawyer's "ability to persuade the judge or the jury is . . . far less important than his ability to persuade the prosecutor" during plea negotiations. United States v. Fernandez, 2000 WL 534449 (S.D.N.Y. May 3, 2000) at *1. Counsel's failure to discharge his duties during plea negotiations is malpractice: "[I]t is malpractice for a lawyer to fail to give his client timely advice concerning" pleas. Id. It also constitutes ineffective assistance of counsel, and violates the Constitution. Thus, counsel has a duty to advise clients fully on whether a particular plea is desirable, since "[e]ffective assistance of counsel includes counsel's informed opinion as to what pleas should be entered." United States v. Villar, 416 F. Supp. 887, 889 (S.D.N.Y. 1976); Boria v. Keane, 99 F.3d 492, 497 (2d Cir. 1996), citing ABA Model Code of Professional Responsibility, Ethical Consideration 7-7 (1992). Counsel also has a constitutional obligation to seek out information from the government, especially information that the government intends to use against the client. Failure to do so constitutes ineffective assistance of counsel. ain Rompilla v. Beard, 545 U.S. 374 (2005).

update pst Lafler + Frye

"The notion that defense counsel must obtain information that the state has and will use against the defendant is not simply a matter of common sense, . . . it is the duty of the lawyer . . . ." Id. at 387, citing 1 ABA Standards for Criminal Justice 4–4.1 (2d ed. 1982 Supp). The Constitution also requires that criminal defense lawyers conduct "a prompt investigation of the circumstances of the case," and this includes making every effort to secure information directly from the prosecutors: The Supreme Court has "long . . . referred [to these ABA Standards] as 'guides in determining what is reasonable.'" Id. at 387.

> It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case. The investigation should always include efforts to secure information in the possession of the prosecution and law enforcement authorities. The duty to investigate exists regardless of the accused's admissions or statements to the lawyer of facts constituting guilt or the accused's stated desire to plead guilty.

Id. at 386, citing 1 ABA Standards for Criminal Justice 4–4.1 (2d ed. 1982 Supp). The lawyer's duty to investigate and obtain information from the prosecutor goes hand-in-hand with the lawyer's additional duty to "make suitable inquiry" to determine whether valid defenses exist. Jones v. Cunningham, 313 F.2d 347 (4th Cir.1963) ("Of course, it is not for a lawyer to fabricate defenses, but he does have an affirmative obligation to make suitable inquiry to determine whether valid ones exist"). And regardless of whether valid defenses exist, counsel has a duty to initiate plea negotiations if he is to discharge his duty to faithfully represent the client's interests. Hawkman v. Parratt, 661 F.2d 1161, 1171 (8th Cir. 1981)(counsel's "failure to initiate plea negotiations concerning the duplicitous felony counts constituted ineffective assistance of counsel which prejudiced Hawkman").

Reason and experience tell us that the system we have in place of sentencing laws, ethical

rules, federal court dockets, and constitutional considerations, will not function if plea negotiations are not privileged. After all, "it is immediately apparent that no defendant or his counsel [would] pursue [plea negotiations] if the remarks uttered during the course of it are to be admitted in evidence as proof of guilt." Herman, 544 F.2d at 797. Plea negotiations are "rooted in the imperative need for confidence and trust," Jaffee v. Redmond, 518 U.S. 1, 10 (1996), and maintaining their confidentiality advances significant public and private ends. Discovery and use of plea negotiations will cause "a meaningful and irreparable chill" to the "frank and complete disclosures" that result in negotiated resolution of criminal matters. In re Air Crash Near Cali, Colombia, 957 F.2d at 1533. For these reasons, plea negotiations are properly subject to a common law privilege under Rule 501.

II. THE SEVERE AND IRREMEDIABLE PREJUDICE TO INTERVENORS FROM DISCLOSURE OF THE COMMUNICATIONS.

The communications which would be disclosed under the Court's order were made by intervenor attorneys on behalf of their client, intervenor Epstein as part of a full, open, and frank negotiation with government counsel directed toward resolving the federal criminal investigation of Mr. Epstein on the most favorable terms possible. Those communications were made with complete confidence that their contents would remain confidential, known only to counsel for the government and intervenors, and would not be subject to possible future disclosure to third parties, and certainly not to third parties seeking to use the contents of their attorney communications to harm their client. That belief was eminently reasonable and based on established practice and understandings regarding the confidentiality of such communications on which they relied in making those communications. The attorney intervenors' decisions

regarding the content of the communications sent to the government in the effort to fulfill their professional and ethical obligations to their client – what to say, how much to say, when to say it, and how to say it – were made in reliance upon those communications not being disclosed outside the attorney-to-attorney settlement negotiation process. Indeed, for the reasons addressed in the preceding section, the settlement/plea negotiation process so central to our system of criminal justice cannot function in the absence of counsel's ability to represent their clients vigorously in pursuing a favorable resolution for them through confidential communications with government counsel.

Now, without persuasive precedent, the Court has drastically reshaped the settlement negotiation landscape to retroactively eliminate the reasonable expectation of confidentiality generated by Rule 410 and the work product privilege, in reliance on which these communications were authored by competent and responsible attorneys, that settlement communications between counsel would remain confidential and not be subject to disclosure to third parties seeking to harm their client and ordering the disclosure of the communications to Mr. Epstein's civil adversaries. If such communications are ultimately found on appeal to be entitled to remain confidential under Rule 410 and the work product privilege and/or found to be subject to Rule 501 common law privilege, as intervenors have every confidence they will be, their disclosure in advance of appellate resolution of the important issues raised in this case will inflict immediate and completely irremediable harm on intervenors, as, if disclosure is not stayed pending appeal, the protections of privilege and confidentiality will have been irretrievably lost. What has been disclosed cannot be undisclosed and returned to its protected state; the damage against which privilege and confidentiality rules are designed to protect will have been done.

The value to intervenors of their appeal to the Eleventh Circuit would be entirely vitiated, as, absent a stay, a victory on appeal cannot ever undo the injury already caused. And the anticipated damage here is not simply limited to disclosure to plaintiffs and their counsel, serious as that damage would be; as past is prologue, there can be little doubt, based on the prior conduct of plaintiffs and their attorneys, that these communications, if disclosed to them, will quickly make their way into the public press for wide-ranging dissemination.

Because it is impossible for appellate courts to undo the damage caused by forced disclosure of privileged or confidential communications or information, courts have consistently recognized that the harm caused by an erroneous order to disclose privileged or confidential information is irreparable. *See, e.g., In re Professionals Direct Ins. Co.*, 578 F.3d 432, 438 (6th Cir. 2009)(finding risk of irreparable harm because "a court cannot restore confidentiality to documents after they are disclosed"); *Gill v. Gulfstream Park Racing Ass'n, Inc.*, 399 F.3d 391, 398 (1st Cir. 2005)("once the documents are turned over to Gill with no clear limitation on what he may do with them, the cat is out of the bag, and there will be no effective means by which TRPB can vindicate its asserted rights after final judgment"); *In re Perrigo Co.*, 128 F.3d 430, 437 (6th Cir.1997)("We find . . . that forced disclosure of privileged material may bring about irreparable harm"); *In re Grand Jury Proceedings*, 43 F.3d 966, 970 (5th Cir. 1994)(forced disclosure of privileged documents would cause irreparable harm). The serious and irreparable injury to intevenors from the Court's order weighs profoundly heavily in favor of granting a stay pending appeal.

III. THE ABSENCE OF PREJUDICE TO THE PLAINTIFFS.

In stark contrast to the severe risk of serious and irreparable injury which the failure to grant a stay pending appeal would cause to intervenors stands the clear absence of prejudice to plaintiffs if a stay is granted. The plaintiffs commenced this action in 2008; they did not even seek disclosure of the communications at issue until two and a half years later, in March, 2011 (Doc. 51). Before doing so, plaintiffs had already moved for summary judgment (Doc. 48), a filing conveying plaintiffs' belief that the record as it existed at that juncture was sufficient to demonstrate their entitlement to the requested relief. That motion remains pending, and no trial date has been set. Indeed, the plaintiffs knowingly sat on their CVRA claims for years as Mr. Epstein served a prison sentence in solitary confinement and as he satisfied all the requirements of his non-prosecution agreement. Rather than seek emergency relief from the Court, the plaintiffs appeared at a status conference on July 11, 2008, *knowing that Mr. Epstein was in prison*, and they told the Court that they saw no reason to proceed on an emergency basis. [Trans. July 11, 2008 at 24-25]. In a hearing one month later, the plaintiffs specifically asked that the Court *not* invalidate the non-prosecution agreement because they wanted to make sure not to undo any benefits they could gain from it. [Trans. August 14, 2008 at 4]. There will be no prejudice to plaintiffs from waiting until an appellate court can address the critically important issues at stake here. If they are entitled to relief – something intervenors strenuously deny – they will obtain it, and the timing of that relief matters little, if at all. Having been in no hurry to seek rescission of the non-prosecution agreement, plaintiffs should not now be heard to contend that the time awaiting appellate resolution really matters.

To the extent that communications authored by Mr. Epstein's counsel and sent to federal prosecutors during settlement negotiations could ever, *arguendo*, be deemed relevant to

plaintiffs' action against the government for alleged breaches of their rights under the CVRA,[3] a dubious proposition at best, any such relevance could be no more than tangential. Plaintiffs already know full well what the government did or did and did not do with respect to communicating with them during the course of the negotiations; the communications of Mr. Epstein's counsel could add little, or, more likely, nothing to the plaintiffs' quantum of proof.

Moreover, the government has made it abundantly plain that, whatever the outcome of this litigation, the agreement it made with Mr. Epstein will stand. Indeed, controlling Supreme Court case law prevents it from doing otherwise. Mr. Epstein has fully performed his side of the bargain with the government, and when a bargain is based "on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled." *Santobello v. New York*, 404 U.S. 257 (1971). Failure to enforce the government's side of a plea bargain violates Due Process. *United States v. Yesil*, 991 F.2d 1527, 1532-33 (11th Cir. 1992). Mr. Epstein has a Due Process right to the continued specific performance and enforcement of the non-prosecution agreement. *United States v. Haber*, 299 Fed. Appx. 865, 867 (11th Cir. 2008). Rescission of the non-prosecution agreement at this juncture would, moreover, undermine Mr. Epstein's reasonable expectations of finality in a contract into which he entered with the government, a particularly inequitable result where it was the government, alone, which had duties to third parties under the CVRA. Relying on the non-prosecution agreement, Mr. Epstein served his state sentence in a county jail, served community control probation, paid huge legal fees under his obligation to the attorney representing certain

[3] The Court's order expressly did not rule on whether any particular piece of correspondence was relevant or admissible. Doc. 188 at 10.

alleged victims who were relying on the non-prosecution agreement to seek damages under 18 U.S.C. §2255, and paid civil settlements to ~~these claimants~~ Jane Doe #1 and Jane Doe #2 because the non-prosecution agreement precluded his contesting liability. The rescission remedy sought by plaintiffs could never restore the status quo to Mr. Epstein or to the third-party beneficiaries of the agreement. Other civil settlements would also not have occurred but for the non-prosecution agreement.[4] Even if the Court could validly set aside the non-prosecution agreement based on the alleged violations of the CVRA, which intervenors maintain that it cannot, although they acknowledge that the Court has ruled otherwise (Doc. 189), the ultimate result under both contract and constitutional law would be the re-entry of the non-prosecution agreement after compliance by the government with its obligations under the CVRA. The confidentiality and privilege rights of intervenors should not be destroyed, as they would be by the failure to grant a stay pending appeal, for so little reason.

IV. THE PUBLIC INTEREST.

There is no interest of the public which will be harmed by the granting of the requested stay. Ordinarily the public may have little interest at all in a dispute between private civil litigants regarding access to documents. 1The public does, however, have a great interest in the fair conduct of plea negotiations – an interest that is profoundly affected by the Court's Order of June 18, 2013. Since more than 95% of all criminal cases are resolved by pleas, the public must have an interest in how the courts function in regard to pleas. The public needs to see that justice not only is done but appears to be done in the courts and would likely regard the Court's new

[4] In addition, the State Attorney relied on the non-prosecution agreement when returning a criminal charge that resulted not from the actions of the grand jury but instead as a corollary of the non-prosecution agreement.

rule of disclosure to private litigants as introducing injustice and unfairness into the settlement/plea negotiation process. The public's interest strongly lies in awaiting appellate resolution of the important issues raised in this case before forcing disclosure of documents which there is a substantial likelihood the appellate court will rule are not subject to disclosure and where the implementation of an un-stayed district court order will risk a change in the way in which attorneys provide effective assistance of counsel to defendants in the pivotal plea bargaining stages that are at issue in this matter.

WM

U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:08-cv-80736-KAM

Doe v. United States of America
Assigned to: Judge [redacted]
Cause: no cause specified

Date Filed: 07/07/2008
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government Defendant

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Date Filed	#	Docket Text
07/07/2008	1	EMERGENCY PETITION for Victim's Enforcement of Crime Victim's Rights Act 18 USC 3771 against United States of America Filing fee $ 350. Receipt#: 724403, filed by Jane Doe.(rb) (Entered: 07/07/2008)
07/07/2008	2	CERTIFICATE OF EMERGENCY by Jane Doe re 1 Complaint (rb) (Entered: 07/07/2008)
07/07/2008	3	ORDER requiring U.S. Attorney to respond to 1 Complaint filed by Jane Doe by 5:00 p.m. on 7/9/08. Signed by Judge [redacted] on 7/7/08. (ir) (Entered: 07/07/2008)
07/09/2008	4	NOTICE of Attorney Appearance by Dexter Lee on behalf of United States of America (Lee, Dexter) (Entered: 07/09/2008)
07/09/2008	6	Sealed Document. (rb) UNSEALED see DE 12 . Modified on 7/15/2008 (bs). (Entered: 07/10/2008)
07/09/2008	7	Sealed Document. (rb) UNSEALED see DE 13 . Modified on 7/15/2008 (bs). (Entered: 07/10/2008)
07/09/2008	8	Sealed Document. (rb) UNSEALED see DE 14 . Modified on 7/15/2008 (bs). (Entered: 07/10/2008)
07/09/2008	12	UNSEALED MOTION to Seal Response to Victim's Emergency Petition by United States of America. (previously filed as 6 sealed document) (bs) (Entered: 07/15/2008)
07/09/2008	13	UNSEALED RESPONSE to 1 Emergency Petition for Enforcement of Crime Victim Rights Act filed by United States of America. (previously filed as 7 sealed document) (bs) (Entered: 07/15/2008)
07/09/2008	14	UNSEALED DECLARATION signed by : A. Marie Villafana. re 13 Response to Victim's Emergency Petition by United States of America. (previously filed as 8 sealed document) (bs) (Entered: 07/15/2008)
07/10/2008	5	ORDER SETTING HEARING: Petitioner's Emergency Petition for Enforcement of Crime Victim's Rights Act set for 7/11/2008 10:15 AM in West Palm Beach Division before Judge [redacted]. Signed by Judge [redacted] on 7/10/08. (ir) (Entered: 07/10/2008)

07/11/2008	9	REPLY to Response (under seal) re 1 Complaint/Emergency Petition, and Objection to Government's Motion for Sealing of Pleadings filed by Jane Doe. (ls) (Entered: 07/11/2008)
07/11/2008	10	Minute Entry for proceedings held before Judge [redacted]: Miscellaneous Hearing held on 7/11/2008. Court will issue order to unseal pleadings. Court Reporter: Official Reporting Service– phone number 305–523–5635 (ir) (Entered: 07/11/2008)
07/11/2008	11	ORDER Denying Motion to Seal re 7 Sealed Document, 6 Sealed Document, 8 Sealed Document. Signed by Judge [redacted] on 7/11/2008. (ls) (Additional attachment(s) added on 7/15/2008: # 1 docket sheet) (bs). (Entered: 07/14/2008)
07/17/2008	15	TRANSCRIPT of Hearing held on 7/11/2008 before Judge [redacted]. Court Reporter: Victoria Aiello– phone number 954–467–8204 32 pages. (abd) (Entered: 07/18/2008)
07/28/2008	16	MOTION for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filing for Paul G. Cassell, Filing Fee $75, Receipt #724532. (cw) (Entered: 07/28/2008)
07/29/2008	17	NOTICE by United States of America *To Court Regarding Absence of Need for Evidentiary Hearing* (Lee, Dexter) (Entered: 07/29/2008)
07/30/2008	18	ENDORSED ORDER granting Paul G. Cassell 16 Motion for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filings. Signed by Judge [redacted] on 7/29/08. (ir) (Entered: 07/30/2008)
08/01/2008	19	RESPONSE/REPLY *to Goverment's Notice to Court Regarding Absence of Need for Evidentiary Hearing and Motion for Production of Non–Prosecution Agreement and of Report of Interview* filed by Jane Doe. (Attachments: # 1 Exhibit Proposed Stipulation, # 2 Exhibit July 17, 2008 Letter, # 3 Exhibit July 3, 2008 Letter)(Edwards, Bradley) (Entered: 08/01/2008)
08/08/2008	20	MOTION for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filing for Jay C. Howell, Filing Fee $75, Receipt #724591. (cw) (Entered: 08/12/2008)
08/13/2008	21	ENDORSED ORDER granting Jay C. Howell 20 Motion for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filings. Signed by Judge [redacted] on 8/12/08. (ir) (Entered: 08/13/2008)
08/13/2008	22	NOTICE by United States of America re 19 Response/Reply (Other), Response/Reply (Other) *Government's Response to Petitioners' Request for Non–Prosecution Agreement and Report of Interview* (Lee, Dexter) (Entered: 08/13/2008)
08/13/2008	23	ORDER Setting Status Conference: Status Conference set for 8/14/2008 03:30 PM in West Palm Beach Division before Judge [redacted]. Parties may contact the courtroom deputy at 561–514–3765 to make arrangements to appear telephonically. Signed by Judge [redacted] on 8/13/08. (ir) (Entered: 08/13/2008)
08/14/2008	25	Minute Entry for proceedings held before Judge [redacted]: Status Conference held on 8/14/2008. Court Reporter: Stephen Franklin– phone number 561–514–3768 (ir) (Entered: 08/21/2008)
08/20/2008	24	NOTICE of Instruction to Filer: re 22 Notice (Other) filed by United States of America Error: Wrong Event Selected; Instruction to filer – In the future please select the proper event. (ls) (Entered: 08/20/2008)
08/21/2008	26	ORDER TO COMPEL PRODUCTION AND PROTECTIVE ORDER. Signed by Judge [redacted] on 8/21/08. (ir) (Entered: 08/21/2008)
08/22/2008	27	TRANSCRIPT of Hearing held on 8/14/2008 before Judge [redacted]. Court Reporter: Stephen Franklin – phone number 561–514–3768 25 pages. (abd)

		(Entered: 08/25/2008)
09/25/2008	28	MOTION to Unseal Document *Non−Prosecution Agreement* by Jane Doe. Responses due by 10/14/2008 (Attachments: # 1 Text of Proposed Order)(Edwards, Bradley) (Entered: 09/25/2008)
10/08/2008	29	RESPONSE in Opposition re 28 MOTION to Unseal Document *Non−Prosecution Agreement* filed by United States of America. (Villafana, Ann Marie) (Entered: 10/08/2008)
10/16/2008	30	RESPONSE/REPLY to 29 Response in Opposition to Motion *to Unseal Non−Prosecution Agreement* filed by Jane Doe. (Attachments: # 1 Exhibit October 9, 2008 letter from Brad Edwards, Esquire to AUSA Dexter Lee, # 2 Exhibit October 15, 2008 Letter from Brad Edwards, Esquire to AUSA Dexter Lee)(Edwards, Bradley) (Entered: 10/16/2008)
10/16/2008	31	REPLY to Response to Motion re 28 MOTION to Unseal Document *Non−Prosecution Agreement* filed by Jane Doe. [See Image at DE #30] (ls) (Entered: 10/17/2008)
10/17/2008		Clerks Notice of Docket Correction and Instruction to Filer re 30 Response/Reply (Other), Response/Reply (Other) filed by Jane Doe. Error − **Wrong Event Selected**; Correction − Redocketed by Clerk as Reply to Response to Motion. Instruction to Filer − In the future, please select the proper event. It is not necessary to refile this document. (ls) (Entered: 10/17/2008)
12/05/2008	33	Sealed Document. (rb) (Entered: 12/05/2008)
12/05/2008	32	SYSTEM ENTRY − Docket Entry 32 restricted/sealed until further notice. (dj) (Entered: 11/03/2010)
12/09/2008	34	Clerks Notice of Docket Correction re 33 Sealed Document. Error(s): Sealed Document Filed in Wrong Case; Correction − Original document restricted and refiled in correct case. (rb) (Entered: 12/09/2008)
12/22/2008	35	AFFIDAVIT signed by : A. Marie Villafana. re 14 Affidavit, 13 Response/Reply (Other) *Supplemental Declaration* by United States of America. (Attachments: # 1 Certification Certificate of Service)(Villafana, Ann Marie) (Entered: 12/22/2008)
02/12/2009	36	ORDER denying 28 Motion to Unseal Document. Signed by Judge [redacted] on 2/12/2009. (ir) (Entered: 02/12/2009)
04/09/2009	37	NOTICE by Jane Doe *of Change of Firm Affiliation* (Edwards, Bradley) (Entered: 04/09/2009)
09/08/2010	38	Administrative Order Closing Case. Signed by Judge [redacted] on 9/8/2010. (tb) (Entered: 09/09/2010)
09/13/2010	39	NOTICE by Jane Doe re 38 Administrative Order *In Response to Administrative Order Closing Case* (Edwards, Bradley) (Entered: 09/13/2010)
10/12/2010	40	ORDER TO SHOW CAUSE for lack of prosecution. Show Cause Response due by 10/27/2010. Signed by Judge [redacted] on 10/8/2010. (ir) (Entered: 10/12/2010)
10/27/2010	41	STATUS REPORT by Jane Doe (Edwards, Bradley) Modified to add missing event 42 Response to Order to Show Cause on 10/28/2010 (ls). (Entered: 10/27/2010)
10/27/2010	42	RESPONSE TO ORDER TO SHOW CAUSE by Jane Doe. (ls)(See Image at DE # 41) (Entered: 10/28/2010)
10/28/2010	43	Clerks Notice to Filer re 41 Status Report. **Two or More Document Events Filed as One**; ERROR − Only one event was selected by the Filer but more than one event was applicable to the document filed. The docket entry was corrected by the Clerk. It is not necessary to refile this document but in the future, the Filer must select all applicable events. (ls) (Entered: 10/28/2010)

10/28/2010	44	ORDER REOPENING CASE. Signed by Judge [redacted] on 10/28/2010. (ir) (Entered: 10/28/2010)
12/17/2010	45	STATUS REPORT by United States of America (Villafana, Ann Marie) (Entered: 12/17/2010)
03/18/2011	46	Unopposed MOTION for Leave to File Excess Pages *of Statement of Facts in Support of their Motion for Finding of Violations of the Crime Victims' Right Act* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) Modified on 3/18/2011 (ls). (Entered: 03/18/2011)
03/18/2011	47	ORDER granting 46 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 3/18/2011. (ir) (Entered: 03/18/2011)
03/21/2011	48	Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* by Jane Doe. Responses due by 4/7/2011 (Attachments: #1 Exhibit A–SEALED, #2 Exhibit B, #3 Exhibit C, #4 Exhibit D, #5 Exhibit E, #6 Exhibit F, #7 Exhibit G, #8 Exhibit H, #9 Exhibit I, #10 Exhibit J, #11 Exhibit K)(Edwards, Bradley). Added MOTION for Hearing on appropriate remedies on 3/23/2011 (lh). (Entered: 03/21/2011)
03/21/2011	49	Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts* by Jane Doe. (Edwards, Bradley) (Entered: 03/21/2011)
03/21/2011	50	Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence* by Jane Doe. (Attachments: #1 Exhibit A, #2 Text of Proposed Order PROPOSED ORDER)(Edwards, Bradley) (Entered: 03/21/2011)
03/21/2011	51	Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed* by Jane Doe. (Edwards, Bradley) (Entered: 03/21/2011)
03/22/2011	52	SYSTEM ENTRY – Docket Entry 52 restricted/sealed until further notice. (mg) (Entered: 03/22/2011)
03/23/2011	53	Clerks Notice to Filer re 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing. **Motion with Multiple Reliefs Filed as One Relief**; ERROR – The Filer selected only one relief event and failed to select the additional corresponding events for each relief requested in the motion. The docket entry was corrected by the Clerk. It is not necessary to refile this document but future filings must comply with the instructions in the CM/ECF Attorney User's Manual. (lh) (Entered: 03/23/2011)
03/28/2011	54	NOTICE by Roy Black re 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence*, 51 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed NOTICEOF OBJECTION* (Black, Roy) (Entered: 03/28/2011)
04/04/2011	55	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Martin Weinberg. Filing Fee $ 75.00. Receipt # 16719. (ksa) (Entered: 04/05/2011)
04/07/2011	56	MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz* by Roy Black. (Perczek, Jacqueline) (Entered: 04/07/2011)
04/07/2011	57	Defendant's MOTION for Leave to File *Memorandum of Law In Excess of Twenty Pages* by United States of America. (Attachments: #1 Exhibit A, #2 Text of Proposed Order)(Lee, Dexter) (Entered: 04/07/2011)

04/07/2011	58	RESPONSE in Opposition re 49 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts* filed by United States of America. (Lee, Dexter) (Entered: 04/07/2011)
04/07/2011	59	RESPONSE in Opposition re 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence* filed by United States of America. (Lee, Dexter) (Entered: 04/07/2011)
04/07/2011	60	RESPONSE in Opposition re 51 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed* filed by United States of America. (Lee, Dexter) (Entered: 04/07/2011)
04/07/2011	71	Clerks Notice to Filer. **Parties Not Added**; ERROR – The Filer failed to add all parties indicated on [DE #56]. The correction was made by the Clerk. It is not necessary to refile this document but all future filings must comply with the instructions in the CM/ECF Attorney User's Manual. (mb) (Entered: 04/20/2011)
04/08/2011	61	ENDORSED ORDER granting 57 Motion for Leave to File Memorandum of Law in Excess of Twenty Pages. *Clerks Notice: Filer must separately re–file the amended pleading pursuant to Local Rule 15.1, unless otherwise ordered by the Judge*. Signed by Judge [redacted] on 4/8/11. (ir) (Entered: 04/08/2011)
04/08/2011	62	RESPONSE in Opposition re 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing filed by United States of America. (Lee, Dexter) (Entered: 04/08/2011)
04/08/2011	63	SYSTEM ENTRY – Docket Entry 63 restricted/sealed until further notice. (dj) (Entered: 04/08/2011)
04/08/2011	64	SYSTEM ENTRY – Docket Entry 64 restricted/sealed until further notice. (dj) (Entered: 04/08/2011)
04/13/2011	65	MOTION for Extension of Time to File Response/Reply as to 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing *Jane Doe #1 and Jane Doe #2 Unopposed Motion for Two Week Extension of Time and For Permission to File an Overlength Reply to Government responses to Their Motions* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 04/13/2011)
04/14/2011	66	ORDER granting 65 Motion for Extension of Time to File Response/Reply re 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing. Replies due by 5/2/2011. Signed by Judge [redacted] on 4/14/2011. (ir) (Entered: 04/14/2011)
04/14/2011	67	MOTION for Extension of Time to File Response/Reply as to 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz Jane Doe #1 and Jane Doe #2 Unopposed Motion for Extension of Time to Coordinate Filing Deadline for Responding to Motion to Intervene* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 04/14/2011)
04/14/2011	68	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Jay Lefkowitz. Filing Fee $ 75.00. Receipt # 17328. (ksa) (Entered: 04/15/2011)
04/18/2011	69	ENDORSED ORDER granting 67 Motion for Extension of Time to File Response/Reply re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz*. Responses due by 5/2/2011. Signed by Judge [redacted] on 4/18/2011. (ir) (Entered: 04/18/2011)

04/18/2011	70	ORDER granting Jay Lefkowitz 68 Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing. Signed by Judge [redacted] on 4/18/2011. (ir) (Entered: 04/18/2011)
04/20/2011	72	ENDORSED ORDER granting Martin Weinberg 55 Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing. Signed by Judge [redacted] on 4/20/2011. (ir) (Entered: 04/20/2011)
04/26/2011	73	ORDER granting [Sealed DE 63] Motion to Seal Appendix to United States Response in Opposition to Petitioner's Motion to use correspondence to prove violations of the Crime Victims' Act and to their unredacted pleadings unsealed. Signed by Judge [redacted] on 4/26/2011. (ir) (Entered: 04/26/2011)
05/02/2011	74	REPLY to Response to Motion re 51 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed Jane Doe #1 and Jane Doe #2 Reply to Government's Response to their Motion to Use Correspondence to Prove Violations of the Crime Victims' rights Act and to Have their Unredacted Pleadings Unsealed* filed by Jane Doe. (Edwards, Bradley) (Entered: 05/02/2011)
05/02/2011	75	REPLY to Response to Motion re 49 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts Jane Doe #1 and jane Doe #2's Reply to Government's Response to Their Motion to have Their Facts Accepted Because of the Government's Failure to Contest Any of The Facts* filed by Jane Doe. (Edwards, Bradley) (Entered: 05/02/2011)
05/02/2011	76	REPLY to Response to Motion re 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence Jane Doe #1 and Jane Doe #2 Reply to Government's Response to Motion for Order Directing The US Attorney's Office Not to Withhold Relevant Evidence* filed by Jane Doe. (Edwards, Bradley) (Entered: 05/02/2011)
05/02/2011	77	REPLY to Response to Motion re 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing *Jane Doe #1 and Jane Doe #2's Reply to Government's Response to Their Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies* filed by Jane Doe. (Edwards, Bradley) (Entered: 05/02/2011)
05/02/2011	78	RESPONSE to Motion re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz Jane Doe #1 and Jane Doe #2 Response to Motion to Intervene of Roy Black, Martin Weinberg, and Jay Lefkowitz* filed by Jane Doe. Replies due by 5/12/2011. (Edwards, Bradley) (Entered: 05/02/2011)
05/03/2011	79	MOTION to Intervene, MOTION for Sanctions by Bruce Reinhart. (Attachments: # 1 Motion for Sanctions)(Reinhart, Bruce) (Entered: 05/03/2011)
05/12/2011	80	REPLY to Response to Motion re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz* filed by Roy Black, Jay Lefkowitz, Martin G. Weinberg. (Perczek, Jacqueline) (Entered: 05/12/2011)
05/16/2011	81	RESPONSE in Opposition re 79 MOTION to Intervene MOTION for Sanctions *Jane Doe #1 and Jane Doe #2's Response to Motion to Intervene of Bruce Reinhart* filed by Jane Doe. (Edwards, Bradley) (Entered: 05/16/2011)
05/16/2011	82	MOTION Motion to Supplement Authorities re 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence Jane Doe #1 and Jane Doe #2 Motion to Supplement Authorities in Support of Their Motion for an Order Directing the US Attorneys Office Not to Withhold Relevant Evidence* by Jane Doe. (Attachments: # 1 Exhibit OPR May 2011 Letter, # 2 Text of Proposed Order)(Edwards, Bradley) (Entered: 05/16/2011)

05/23/2011	83	REPLY to Response to Motion re 79 MOTION to Intervene MOTION for Sanctions *OR IN THE ALTERNATIVE FOR A SUA SPONTE RULE 11 ORDER* filed by Bruce Reinhart. (Reinhart, Bruce) (Entered: 05/23/2011)
05/30/2011	84	RESPONSE in Opposition re 82 MOTION Motion to Supplement Authorities re 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence Jane Doe #1 and Jane Doe &MOTION Motion to Supplement Authorities re 50 Plaintiff's MOTION Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence Jane Doe #1 and Jane Doe &MOTION Motion to Supplement Authorities re 50 Plaintiff's MOTION Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence Jane Doe #1 and Jane Doe &filed by United States of America. (Lee, Dexter) (Entered: 05/30/2011)*
06/17/2011	85	Notice of Supplemental Authority re 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing *Jane Doe #1 and Jane Doe #2's Notice of Newly–Available Supplemental Authority in Support of Their Motion for Finding of Violations of the Crimes Victims Rights Act* by Jane Doe (Attachments: #1 Exhibit Exhbit A)(Edwards, Bradley) (Entered: 06/17/2011)
06/23/2011	86	ORDER granting 82 Motion to Supplement Authorities in Support of their Motion for an Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence. Signed by Judge [redacted] on 6/23/2011. (ir) (Entered: 06/23/2011)
06/23/2011	87	ORDER Setting Hearing on pending motions: 79 MOTION to Intervene MOTION for Sanctions, 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz*, 49 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts*, 51 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed*, 48 Plaintiff's MOTION for Summary Judgment *REDACTED– Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies* MOTION for Hearing, 50 Plaintiff's MOTION *Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence* : Motion Hearing set for 8/12/2011 02:00 PM in West Palm Beach Division before Judge [redacted].. Signed by Judge [redacted] on 6/23/2011. (ir) (Entered: 06/23/2011)
07/09/2011	88	RESPONSE/REPLY to 85 Notice of Supplemental Authority,, by United States of America. (Lee, Dexter) (Entered: 07/09/2011)
08/12/2011	89	Minute Entry for proceedings held before Judge [redacted]: Pending Motion Hearing held on 8/12/2011. Court Reporter: Melinda Colchico, Consor and Associates, 561–682–0905 (ir) (Entered: 08/12/2011)
08/19/2011	90	NOTICE by United States of America *of Filing Department of Justice, Office of Legal Counsel Opinion* (Attachments: #1 Exhibit A)(Lee, Dexter) (Entered: 08/19/2011)
08/22/2011	91	Unopposed MOTION for Extension of Time to File Supplemental Briefing *by Proposed Intervenors* re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz*, 89 Motion Hearing by Roy Black. Responses due by 9/9/2011 (Perczek, Jacqueline) (Entered: 08/22/2011)
08/23/2011	92	ENDORSED ORDER granting 91 Motion for Extension of Time TO File Supplemental Briefing by Proposed Intervenors re 56 MOTION to Intervene of Roy Black, Martin Weinberg, and Jay Lefkowitz. Supplemental brief due 9/2/11. Signed by Judge [redacted] on 8/23/2011. (ir) (Entered: 08/23/2011)
09/02/2011	93	MOTION to Intervene *For Limited Intervention* by Jeffrey Epstein. (Attachments: #1 Exhibit A — Motion For Protective Order)(Perczek, Jacqueline) (Entered: 09/02/2011)

09/02/2011	94	SUPPLEMENT to 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz* by Roy Black (Perczek, Jacqueline) (Entered: 09/02/2011)
09/16/2011	95	Unopposed MOTION for Extension of Time to File Response/Reply as to 93 MOTION to Intervene *For Limited Intervention*, 94 Supplement by United States of America. (Attachments: # 1 Text of Proposed Order)(Villafana, Ann Marie) (Entered: 09/16/2011)
09/16/2011	96	RESPONSE in Opposition re 93 MOTION to Intervene *For Limited Intervention Jane Doe #1 and Jane Doe #2 Response to Motion for "Limited" Intervention of Jeffrey Epstein* filed by Jane Doe. (Attachments: # 1 Exhibit A)(Edwards, Bradley) (Entered: 09/16/2011)
09/19/2011	97	ORDER granting 95 Motion for Extension of Time to File Response/Reply to 93 MOTION to Intervene For Limited Intervention by Jeffrey Epstein. Signed by Judge [redacted] on 9/19/2011. (ir) (Entered: 09/19/2011)
09/25/2011	98	RESPONSE to Motion re 93 MOTION to Intervene *For Limited Intervention* filed by United States of America. Replies due by 10/6/2011. (Villafana, Ann Marie) (Entered: 09/25/2011)
09/26/2011	99	ORDER granting in part 48 and DE 52 Motion for finding of violations of the Crime Victims' Rights Act; denying 49 Motion to have facts accepted; deferring ruling on 50 Motion for order directing the U.S. Attorney's Office not to withhold relevant evidence; denying 79 Motion to Intervene ; denying 79 Motion for Sanctions. Signed by Judge [redacted] on 9/26/2011. (ir) (Entered: 09/26/2011)
09/27/2011	100	RESPONSE/REPLY to 94 Supplement *Briefing in Support of Motion to Intervene of Black, Weinberg, and Lefkowitz* by United States of America. (Villafana, Ann Marie) (Entered: 09/27/2011)
09/28/2011	101	MOTION for Extension of Time to File Response/Reply as to 100 Response/Reply (Other), 94 Supplement *Jane Doe #1 and Jane Doe #2 Unopposed Motion for Extension of time to Respond to Supplemental Briefing in Support of Motion to Intervene by Roy Black,e t.al.* by Jane Doe. (Attachments: # 1 Text of Proposed Order)(Edwards, Bradley) (Entered: 09/28/2011)
09/28/2011	102	ENDORSED ORDER granting 101 Motion for Extension of Time to File Response/Reply to supplemental briefing in support of 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz*. Responses due by 10/10/2011. Signed by Judge [redacted] on 9/28/2011. (ir) (Entered: 09/28/2011)
09/29/2011	103	Unopposed MOTION for Extension of Time Until October 14, 2011 To File His Omnibus Reply In Support Of His Motion For Limited Intervention re 93 MOTION to Intervene *For Limited Intervention*, 98 Response to Motion, 96 Response in Opposition to Motion, by Roy Black. Responses due by 10/17/2011 (Black, Roy) (Entered: 09/29/2011)
09/30/2011	104	ENDORSED ORDER granting 103 Motion for Extension of Time To File Omnibus Reply In Support of 93 MOTION to Intervene For Limited Intervention. Reply due 10/14/11. Signed by Judge [redacted] on 9/30/2011. (ir) (Entered: 09/30/2011)
09/30/2011		Set/Reset Deadlines as to 93 MOTION to Intervene *For Limited Intervention*. Replies due by 10/14/2011. (ir) (Entered: 09/30/2011)
10/10/2011	105	MOTION for Leave to File Excess Pages *Jane Doe #1 and Jane Doe #2 Unopposed Moton for Five Extra Pages to Respond to Supplemental Briefing in Support of Motion to Intervene by roy Black, et. al.* by Jane Doe. (Attachments: # 1 Text of Proposed Order)(Edwards, Bradley) (Entered: 10/10/2011)
10/10/2011	106	RESPONSE in Opposition re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz Response to Supplemental Briefing in Support of Motion to Intervene of Roy Black, Martin Weinberg, and Jay Lefkowitz (DE 94)* filed by Jane Doe. (Attachments: # 1 Exhibit Jan. 18, 2011 Hrg. Transcript)(Edwards, Bradley) (Entered: 10/10/2011)

10/11/2011	107	ENDORSED ORDER granting 105 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 10/11/2011. (ir) (Entered: 10/11/2011)
10/14/2011	108	REPLY to Response to Motion re 93 MOTION to Intervene *For Limited Intervention* filed by Jeffrey Epstein. (Perczek, Jacqueline) (Entered: 10/14/2011)
10/14/2011	109	MOTION for Leave to File Excess Pages *in Omnibus Reply In Support of Motion For Limited Intervention* by Jeffrey Epstein. (Perczek, Jacqueline) (Entered: 10/14/2011)
10/14/2011	110	MOTION for Extension of Time to File Response/Reply as to 106 Response in Opposition to Motion, 94 Supplement by Roy Black. (Perczek, Jacqueline) (Entered: 10/14/2011)
10/16/2011	111	NOTICE by Roy Black re 110 MOTION for Extension of Time to File Response/Reply as to 106 Response in Opposition to Motion, 94 Supplement *Notice of No Objection By Government* (Perczek, Jacqueline) (Entered: 10/16/2011)
10/16/2011	112	NOTICE by Jeffrey Epstein re 109 MOTION for Leave to File Excess Pages *in Omnibus Reply In Support of Motion For Limited Intervention Notice of No Objection From Government* (Perczek, Jacqueline) (Entered: 10/16/2011)
10/17/2011	113	ENDORSED ORDER granting 110 Motion for Extension of Time to File Response/Reply re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz*. Replies due by 10/31/2011. Signed by Judge [redacted] on 10/17/2011. (ir) (Entered: 10/17/2011)
10/17/2011	114	ENDORSED ORDER granting 109 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 10/17/2011. (ir) (Entered: 10/17/2011)
10/31/2011	115	REPLY to Response to Motion re 56 MOTION to Intervene *of Roy Black, Martin Weinberg, and Jay Lefkowitz* filed by Roy Black, Jay Lefkowitz, Martin G. Weinberg. (Perczek, Jacqueline) (Entered: 10/31/2011)
10/31/2011	116	Unopposed MOTION for Leave to File Excess Pages by Roy Black, Jay Lefkowitz, Martin G. Weinberg. (Perczek, Jacqueline) (Entered: 10/31/2011)
11/01/2011	117	ENDORSED ORDER granting 116 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 11/1/2011. (ir) (Entered: 11/01/2011)
11/08/2011		SYSTEM ENTRY – Docket Entry 118 [motion] restricted/sealed until further notice. (dj) (Entered: 11/08/2011)
11/08/2011		SYSTEM ENTRY – Docket Entry 119 [motion] restricted/sealed until further notice. (dj) (Entered: 11/08/2011)
11/08/2011		SYSTEM ENTRY – Docket Entry 120 [motion] restricted/sealed until further notice. (dj) (Entered: 11/08/2011)
11/08/2011		SYSTEM ENTRY – Docket Entry 121 [motion] restricted/sealed until further notice. (dj) (Entered: 11/08/2011)
11/09/2011		SYSTEM ENTRY – Docket Entry 122 [order] restricted/sealed until further notice. (dj) (Entered: 11/09/2011)
11/09/2011		SYSTEM ENTRY – Docket Entry 123 [order] restricted/sealed until further notice. (dj) (Entered: 11/09/2011)
11/16/2011	124	MOTION for Extension of Time to File Response/Reply *Jane Doe #1 and Jane Doe #2 Unopposed Motion for 10–day Extension of time to Respond to Government's Motion to Dismiss and Motion for Stay of Discovery* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 11/16/2011)
11/16/2011	125	ENDORSED ORDER granting 124 Motion for Extension of Time to File Response/Reply re 119 SEALED MOTION to dismiss for lack of subject matter jurisdiction. Responses due by 12/5/2011. Signed by Judge [redacted] on 11/16/2011. (ir) (Entered: 11/16/2011)

12/05/2011	126	MOTION for Leave to File Excess Pages *Jane Doe #1 and Jane Doe #2 Motion for Four Extra Pages to Respond to Government's Motion to Dismiss* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 12/05/2011)
12/05/2011	127	RESPONSE/REPLY *Jane Doe #1 and Jane Doe #2 Response to Goverment's Sealed Motion to Dismiss for Lack of Subject Matter Jurisdiction* by Jane Doe. (Edwards, Bradley) (Entered: 12/05/2011)
12/05/2011	128	Jane Doe #1 and Jane Doe #2 Protective Motion *for Remedies* by Jane Doe. (Edwards, Bradley) Modified on 12/7/2011 (mg). (Entered: 12/05/2011)
12/05/2011	129	RESPONSE/REPLY *Jane Doe #1 and Jane Doe #2 Response to Governments Sealed Motion to Stay* by Jane Doe. (Edwards, Bradley) (Entered: 12/05/2011)
12/05/2011	130	MOTION Protective Motion to Compel *Jane Doe #1 and Jane Doe #2 Protective Motion to Compel* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) Modified on 12/7/2011 (mg). (Entered: 12/05/2011)
12/06/2011	132	Clerks Notice to Filer re 128 Motion for Miscellaneous Relief. **Wrong Event Selected – Document is a Motion**; ERROR – The Filer selected the wrong event. A motion event must always be selected when filing a motion. The correction was made by the Clerk. It is not necessary to refile this document. (mg) (Entered: 12/07/2011)
12/07/2011	131	ENDORSED ORDER granting 126 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 12/6/2011. (ir) (Entered: 12/07/2011)
12/07/2011		SYSTEM ENTRY – Docket Entry 133 [motion] restricted/sealed until further notice. (mg) (Entered: 12/07/2011)
12/07/2011		SYSTEM ENTRY – Docket Entry 134 [misc] restricted/sealed until further notice. (mg) (Entered: 12/07/2011)
12/12/2011		SYSTEM ENTRY – Docket Entry 135 [order] restricted/sealed until further notice. (dj) (Entered: 12/12/2011)
12/15/2011	136	Defendant's MOTION for Extension of Time to File Response/Reply as to 128 Motion for Miscellaneous Relief, 127 Response/Reply (Other), 130 Motion to Compel, 129 Response/Reply (Other) by United States of America. (Attachments: #1 Text of Proposed Order)(Lee, Dexter) (Entered: 12/15/2011)
12/15/2011	137	ENDORSED ORDER granting 136 Motion for Extension of Time to File Response/Reply re 130 Motion to Compel, 128 Motion for for Remedies. Responses due by 1/6/2012. Signed by Judge [redacted] on 12/15/2011. (ir) (Entered: 12/15/2011)
01/06/2012	138	Second MOTION for Extension of Time to File Response/Reply *to Petitioners' Responses and Motions Filed on December 5, 2011* by United States of America. (Attachments: #1 Text of Proposed Order)(Lee, Dexter) (Entered: 01/06/2012)
01/09/2012	139	ENDORSED ORDER granting 138 Motion for Extension of Time to File Response/Reply re 130 Motion to Compel, 128 Motion for Miscellaneous Relief. Responses due by 1/24/2012. Signed by Judge [redacted] on 1/9/2012. (ir) (Entered: 01/09/2012)
01/24/2012	140	RESPONSE in Opposition re 130 Motion to Compel *and Reply to Response to Sealed Motion to Stay Discovery Pending Ruling upon Respondent's Motion to Dismiss [DE 129]* filed by United States of America. (Villafana, Ann Marie) Modified Text on 1/25/2012 (ls). (Entered: 01/24/2012)
01/24/2012	141	Unopposed MOTION for Extension of Time to File Response/Reply as to 128 Motion for Miscellaneous Relief, 127 Response/Reply (Other) by United States of America. (Sanchez, Eduardo) (Entered: 01/24/2012)
01/25/2012	142	ENDORSED ORDER granting 141 Motion for Extension of Time to File Response/Reply re 128 Motion for Remedies and Motion to Dismiss. Responses/Replies due by 1/26/2012. Signed by Judge [redacted] on 1/25/2012. (ir) (Entered: 01/25/2012)

01/26/2012	143	Defendant's MOTION for Leave to File Excess Pages by United States of America. (Lee, Dexter) (Entered: 01/26/2012)
01/26/2012	144	RESPONSE in Opposition re 128 Motion for Miscellaneous Relief filed by United States of America. (Sanchez, Eduardo) (Entered: 01/26/2012)
01/27/2012	145	ENDORSED ORDER granting 143 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 1/27/2012. (ir) (Entered: 01/27/2012)
01/27/2012		SYSTEM ENTRY – Docket Entry 146 [motion] restricted/sealed until further notice. (dj) (Entered: 01/27/2012) Mot to Seal DE 147
01/27/2012		SYSTEM ENTRY – Docket Entry 147 [misc] restricted/sealed until further notice. (dj) (Entered: 01/27/2012) Reply in Support of Mot Dismiss for Lack of Subj Matter Juris
02/03/2012	148	ORDER denying without prejudice 50 Motion for Order Directing U.S. Attorney's Office not to Withhold Relevant Evidence. Signed by Judge [redacted] on 2/3/2012. (ir) (Entered: 02/03/2012)
02/06/2012	149	SYSTEM ENTRY – Docket Entry 149 [order] restricted/sealed until further notice. (dj) (Entered: 02/06/2012) Omnibus Order of Clarification
02/07/2012	150	MOTION Government to File Redacted Pleadings in Public Court File *Jane Doe#1 and Jane Doe #2's Motion Requesting an Order Directing the Government to File Redacted Pleadings in the Public Court File* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 02/07/2012)
02/07/2012		SYSTEM ENTRY – Docket Entry 151 [motion] restricted/sealed until further notice. (mg) (Entered: 02/07/2012) Mot Seal DE 152
02/07/2012		SYSTEM ENTRY – Docket Entry 152 [motion] restricted/sealed until further notice. (mg) (Entered: 02/07/2012) Jane Does' Mot for Ct to Deny Mot Dismiss
02/13/2012		SYSTEM ENTRY – Docket Entry 153 [order] restricted/sealed until further notice. (dj) (Entered: 02/13/2012) Order to Seal re DE 147 or 152
02/13/2012		SYSTEM ENTRY – Docket Entry 154 [order] restricted/sealed until further notice. (dj) (Entered: 02/13/2012) Order to Seal re DE 147 or 152
02/24/2012	156	Respondent's sealed opposition to petitioners motion requesting an order directing the government to file redacted pleadings in the public court file (dj) Unsealed on 6/19/2013 per Order 187 (mg). (Entered: 02/27/2012)
02/27/2012		SYSTEM ENTRY – Docket Entry 155 [motion] restricted/sealed until further notice. (dj) (Entered: 02/27/2012)
03/14/2012		SYSTEM ENTRY – Docket Entry 157 [order] restricted/sealed until further notice. (dj) (Entered: 03/14/2012)
03/29/2012	158	ORDER granting 56 Motion to Intervene. Signed by Judge [redacted] on 3/29/2012. (ir) (Entered: 03/29/2012)
03/29/2012	159	ORDER granting 93 Motion to Intervene. Signed by Judge [redacted] on 3/29/2012. (ir) (Entered: 03/29/2012)
04/17/2012	160	MOTION for Protective Order *by Intervenors Black, Weinberg and Lefkowitz and Opposition to Motions of Jane Doe 1 and Jane Doe 2 For Production, Use, and Disclosure of Settlement Negotiations* by Roy Black. (Perczek, Jacqueline) (Entered: 04/17/2012)
04/17/2012	161	MOTION for Protective Order *Supplemental Briefing Of Intervenors Black, Weinberg, And Lefkowitz In Support Of Their Motion For A Protective Order Concerning Production, Use, And Disclosure Of Plea Negotiations* by Roy Black. (Perczek, Jacqueline) (Entered: 04/17/2012)
04/17/2012	162	MOTION for Protective Order *by Limited Intervenor Jeffrey Epstein And Opposition To Motions of Jane Doe 1 And Jane Doe 2 For Production, Use, And Disclosure Of Plea Negotiations* by Jeffrey Epstein. (Perczek, Jacqueline) (Entered: 04/17/2012)

04/17/2012	164	SUPPLEMENTAL Briefing in support of Motion for a Protective Order concerning Production, Use, and Disclosure of Plea Negotiations by Roy Black, Jay Lefkowitz, Martin G. Weinberg (ls)(See Image at DE # 161) (Entered: 04/18/2012)
04/18/2012	163	Notice of Supplemental Authority re 160 MOTION for Protective Order *by Intervenors Black, Weinberg and Lefkowitz and Opposition to Motions of Jane Doe 1 and Jane Doe 2 For Production, Use, and Disclosure of Settlement Negotiations*, 162 MOTION for Protective Order *by Limited Intervenor Jeffrey Epstein And Opposition To Motions of Jane Doe 1 And Jane Doe 2 For Production, Use, And Disclosure Of Plea Negotiations*, 161 MOTION for Protective Order *Supplemental Briefing Of Intervenors Black, Weinberg, And Lefkowitz In Support Of Their Motion For A Protective Order Concerning Production, Use, And Disclosure Of Plea Negotiations* by Roy Black, Jeffrey Epstein, Jay Lefkowitz, Martin G. Weinberg (Perczek, Jacqueline) (Entered: 04/18/2012)
04/18/2012	165	Clerks Notice to Filer re 161 MOTION for Protective Order *Supplemental Briefing Of Intervenors Black, Weinberg, And Lefkowitz In Support Of Their Motion For A Protective Order Concerning Production, Use, And Disclosure Of Plea Negotiations*. **Wrong Event Selected**; ERROR – The Filer selected the wrong event. The document was re–docketed by the Clerk, see [de#164]. It is not necessary to refile this document. (ls) (Entered: 04/18/2012)
04/19/2012	166	Unopposed MOTION for Leave to File Excess Pages *to Respond to Supplemental Briefing in Support of Motion to Intervene by Roy Black* by Jane Doe. (Attachments: # 1 Text of Proposed Order)(Edwards, Bradley) Modified Text on 4/20/2012 (ls). (Entered: 04/19/2012)
04/19/2012	167	RESPONSE in Opposition re 160 MOTION for Protective Order *by Intervenors Black, Weinberg and Lefkowitz and Opposition to Motions of Jane Doe 1 and Jane Doe 2 For Production, Use, and Disclosure of Settlement Negotiations*, 162 MOTION for Protective Order *by Limited Intervenor Jeffrey Epstein And Opposition To Motions of Jane Doe 1 And Jane Doe 2 For Production, Use, And Disclosure Of Plea Negotiations*, 161 MOTION for Protective Order *Supplemental Briefing Of Intervenors Black, Weinberg, And Lefkowitz In Support Of Their Motion For A Protective Order Concerning Production, Use, And Disclosure Of Plea Negotiations Jane Doe #1 and Jane Doe #2 Response to Supplemental Briefing in Support of Motion to Intervene of Roy Black* filed by Jane Doe. (Edwards, Bradley) (Entered: 04/19/2012)
04/19/2012	168	ENDORSED ORDER granting 166 Motion for Leave to File Excess Pages. Signed by Judge [redacted] on 4/19/2012. (dby) (Entered: 04/19/2012)
04/23/2012	169	REPLY to Response to Motion re 160 MOTION for Protective Order *by Intervenors Black, Weinberg and Lefkowitz and Opposition to Motions of Jane Doe 1 and Jane Doe 2 For Production, Use, and Disclosure of Settlement Negotiations*, 162 MOTION for Protective Order *by Limited Intervenor Jeffrey Epstein And Opposition To Motions of Jane Doe 1 And Jane Doe 2 For Production, Use, And Disclosure Of Plea Negotiations*, 161 MOTION for Protective Order *Supplemental Briefing Of Intervenors Black, Weinberg, And Lefkowitz In Support Of Their Motion For A Protective Order Concerning Production, Use, And Disclosure Of Plea Negotiations* filed by Roy Black, Jeffrey Epstein, Jay Lefkowitz, Martin G. Weinberg. (Perczek, Jacqueline) (Entered: 04/23/2012)
04/23/2012	170	REPLY to 164 Supplemental Briefing by Roy Black, Jeffrey Epstein, Jay Lefkowitz, Martin G. Weinberg. (ls)(See Image at DE # 169) (Entered: 04/24/2012)
04/24/2012	171	Clerks Notice to Filer re 169 Reply to Response to Motion,,,. **Wrong Event Selected**; ERROR – The Filer selected the wrong event. The document was re–docketed by the Clerk, see [de#170]. It is not necessary to refile this document. (ls) (Entered: 04/24/2012)
05/21/2012	172	RESPONSE to Motion re 160 MOTION for Protective Order *by Intervenors Black, Weinberg and Lefkowitz and Opposition to Motions of Jane Doe 1 and Jane Doe 2 For Production, Use, and Disclosure of Settlement Negotiations Supplemental Authority in Support of Jane Doe #1 and Jane Doe #2s Response to Supplemental*

		Briefing in Support of Motion to Intervene of Roy Black, Martin Weinberg and Jay Lefkowitz filed by Jane Doe. Replies due by 6/1/2012. (Attachments: #1 Exhibit Exhibit A)(Edwards, Bradley) (Entered: 05/21/2012)
05/21/2012	173	Notice of Supplemental Authority re 167 Response in Opposition to Motion,,, by Jane Doe (ls)(See Image at DE #172) (Entered: 05/22/2012)
05/22/2012	174	Clerks Notice to Filer re 172 Response to Motion,,. **Wrong Event Selected**; ERROR – The Filer selected the wrong event. The document was re-docketed by the Clerk, see [de#173]. It is not necessary to refile this document. (ls) (Entered: 05/22/2012)
05/23/2012	175	Unopposed MOTION for Extension of Time To Respond re 173 Notice of Supplemental Authority by Roy Black, Jeffrey Epstein, Jay Lefkowitz, Martin G. Weinberg. Responses due by 6/11/2012 (Attachments: #1 Text of Proposed Order)(Perczek, Jacqueline) (Entered: 05/23/2012)
05/23/2012	176	ENDORSED ORDER granting 175 Motion for Extension of Time To Respond re 173 Notice of Supplemental Authority by Roy Black, Jeffrey Epstein, Jay Lefkowitz, Martin G. Weinberg. Deadline extended to 6/8/12. Signed by Judge [redacted] on 5/23/2012. (ir) (Entered: 05/23/2012)
06/06/2012	177	MOTION to Strike 173 Notice of Supplemental Authority by Roy Black. Responses due by 6/25/2012 (Attachments: #1 Exhibit A)(Perczek, Jacqueline) (Entered: 06/06/2012)
06/12/2012	178	RESPONSE to Motion re 177 MOTION to Strike 173 Notice of Supplemental Authority filed by Jane Doe. Replies due by 6/22/2012. (Edwards, Bradley) Modified on 6/13/2012 (ls). (Entered: 06/12/2012)
12/06/2012	179	MOTION to Expedite Ruling Denying Government's Motion to Stay *Prompt Ruling* by Jane Doe. (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) Modified Relief on 12/7/2012 (ls). (Entered: 12/06/2012)
12/07/2012	180	Clerks Notice to Filer re 179 MOTION Prompt Ruling Denying Government's Motion to Stay . **Wrong Motion Relief(s) Selected**; ERROR – The Filer selected the wrong motion relief(s) 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 applicable reliefs. (ls) (Entered: 12/07/2012)
12/10/2012	181	Notice of Supplemental Authority *in support of Jane Doe #1 and Jan Doe #2's Response to Government's Sealed Motion to Dismiss for Lack of Subject Matter Jurisdiction* by Jane Doe (Edwards, Bradley) Modified on 12/11/2012 (ls). (Entered: 12/10/2012)
12/21/2012	182	RESPONSE in Opposition re 179 Motion to Expedite Ruling Denying Government's Motion to Stay *Prompt Ruling* filed by United States of America. (Lee, Dexter) (Entered: 12/21/2012)
03/14/2013	183	MOTION to Compel *Production of Court-Ordered Discovery and for a Prompt Ruling on the Motion* by Jane Doe. Responses due by 4/1/2013 (Attachments: #1 Text of Proposed Order)(Edwards, Bradley) (Entered: 03/14/2013)
03/29/2013	184	ORDER granting 179 Motion to Expedite; granting 183 Motion to Compel. Signed by Judge [redacted] on 3/28/2013. (ir) (Entered: 03/29/2013)
06/12/2013	185	Notice of Supplemental Authority *in Support of Motion for Court to Deny the Government's Motion to Dismiss Based on Existing Pleadings or, at the Minimum, Allow Leave to File A Sur-Reply* by Jane Doe (Edwards, Bradley) Modified Link on 6/13/2013 (ls). (Entered: 06/12/2013)
06/13/2013	186	Clerks Notice to Filer re 185 Notice of Supplemental Authority,. **Incorrect Document Link**; ERROR – The filed document was not correctly linked to the related docket entry. The correction was made by the Clerk. It is not necessary to refile this document but future filings must comply with the instructions in the CM/ECF Attorney User's Manual. (ls) (Entered: 06/13/2013)

06/18/2013	187	ORDER granting 150 Motion to require Government to File Redacted Pleadings in Open Court and to Unseal the Government's Response in Opposition to the Motion. Signed by Judge [redacted] on 6/18/2013. (ir) (Entered: 06/18/2013)
06/18/2013	188	ORDER granting 51 Motion to unseal unredacted pleadings ; denying 160 Motion for Protective Order; denying 162 Motion for Protective Order. Signed by Judge [redacted] on 6/18/2013. (ir) (Entered: 06/18/2013)
06/18/2013	189	ORDER denying 119 government's motion to dismiss for lack of subject matter jurisdiction. The stay of discovery pending ruling on the government's motion to dismiss entered 11/8/2013 DE# 123 is lifted. Signed by Judge [redacted] on 6/18/2013. (jmd) (Entered: 06/19/2013)
06/18/2013	190	OMNIBUS ORDER denying without prejudice 128 Motion ; granting 130 Motion to Compel (see order for further details); denying as moot 152 Sealed Motion; denying as moot 177 Motion to Strike. Signed by Judge [redacted] on 6/18/2013. (jmd) Modified on 6/19/2013 to reflect not under seal. (jmd). (Entered: 06/19/2013)
06/19/2013	191	Clerks Notice of Docket Correction re 190 Omnibus Order. **Correction** Other. To reflect order not filed under seal, and NEF notification. (jmd) (Entered: 06/19/2013)
06/19/2013	192	Clerk's NOTICE of Compliance re 187 Order on Motion (mg) (Entered: 06/19/2013)
06/26/2013	193	MOTION to Stay re 190 Order on Motion for Miscellaneous Relief, Order on Motion to Compel, Order on Sealed Motion, Order on Motion to Strike,,,, 189 Order on Sealed Motion, 188 Order on Motion for Miscellaneous Relief, Order on Motion for Protective Order, *Pending Appeal* by Roy Black. Responses due by 7/15/2013 (Black, Roy) (Entered: 06/26/2013)