

1 THE COURT: That's a private

2 residence?

3 MR. GOLDBERGER: That is his home.

4 THE COURT: Does he own the  
5 residence?

6 MR. GOLDBERGER: He does, Your Honor.

7 THE COURT: Is there any possibility  
8 that he no longer owns the residence?

9 MR. GOLDBERGER: Not anticipated,  
10 Your Honor.

11 THE COURT: Okay. Should he not be  
12 for whatever reason -- 18-months is a long  
13 time, should he not be owning that  
14 residence or able to reside there, he will  
15 have the obligation of notifying his  
16 probation officer prior, and I emphasize  
17 this, prior to his release from custody. I  
18 assume that the department will be notified  
19 prior to, to his release?

20 PROBATION OFFICER: That is correct,  
21 Your Honor.

22 THE COURT: And then you would need  
23 to send someone to meet with him before he  
24 walks out of the Palm Beach County jail and  
25 verify his address and employment

1 information?

2 PROBATION OFFICER: That is correct.

3 THE COURT: All address -- I assume  
4 all of this to and from work and any other  
5 approved activities restricts him to Palm  
6 Beach County, is that correct?

7 PROBATION OFFICER: That is correct,  
8 Your Honor.

9 THE COURT: So let's be clear,  
10 everything, from the day he walks out  
11 occurs in Palm Beach County, is that clear?

12 MR. GOLDBERGER: We understand, Your  
13 Honor. That's correct.

14 THE COURT: Then the additional  
15 condition of his probation, they are not  
16 sex offender standard conditions, they are  
17 just conditions that are being imposed  
18 especially in this case?

19 MS. BELOHLAVEK: Correct.

20 THE COURT: They are as follows, you  
21 shall submit to a mandatory curfew from 10  
22 p.m. to 6:00 a.m. regardless of any other  
23 restrictions regarding work or approved  
24 activity, there will be no exceptions to  
25 being at home in house from 10 p.m. to 6

1 a.m., is that correct?

2 MS. BELOHLAVEK: Yes.

3 THE COURT: If the victim was under  
4 age of 18 years which I gather is the case  
5 because it's circled, you shall not live  
6 within 1000 feet of a school, day care  
7 center, park, playground or other place  
8 where children regularly congregate.

9 Has someone verified that 358 El  
10 Brillo is such a place?

11 MS. BELOHLAVEK: No, but that will be  
12 done prior to his release.

13 THE COURT: So 358 El Brillo will not  
14 be approved if it should happen to be one  
15 thousand feet from a school, day care  
16 center, park, playground or other place --  
17 this is rather open.

18 MR. GOLDBERGER: Where children  
19 gather.

20 THE COURT: Where children regularly  
21 congregate.

22 MS. BELOHLAVEK: Right.

23 THE COURT: The Court knows 358 El  
24 Brillo Way is a residential neighborhood,  
25 are there areas there where children

1 regularly congregate?

2 MS. BELOHLAVEK: I personally do not  
3 know.

4 THE COURT: Neither do I, which is  
5 why I'm asking. Has that been  
6 investigated?

7 MR. GOLDBERGER: We have done our due  
8 diligence, for what it's worth, there is a  
9 residential street. There are not children  
10 congregating on that street. We think the  
11 address applies, if it doesn't, we fully  
12 recognize that he can't live there.

13 THE COURT: Okay. D is, you shall  
14 not have any contact with the victim, are  
15 there more than one victim?

16 MS. BELOHLAVEK: There's several.

17 THE COURT: Several, all of the  
18 victims. So this should be plural. I'm  
19 making that plural. You are not to have  
20 any contact direct or indirect, and in this  
21 day and age I find it necessary to go over  
22 exactly what we mean by indirect. By  
23 indirect, we mean no text messages, no  
24 e-mail, no Face Book, no My Space, no  
25 telephone calls, no voice mails, no

1            messages through carrier pigeon, no  
2            ~~messages through third parties, no hey~~  
3            would you tell so and so for me, no having  
4            a friend, acquaintance or stranger approach  
5            any of these victims with a message of any  
6            sort from you, is that clear?

7            THE DEFENDANT: Yes, ma'am

8            THE COURT: And then it states,  
9            unless approved by the victim, the  
10           therapist and the sentencing court. Okay.

11           THE DEFENDANT: I understand.

12           THE COURT: And the sentencing court.  
13           So, if there is a desire which, I would  
14           think would be a bit strange to have  
15           contact with any of the victims the court  
16           must approve it.

17           MS. BELOHLAVEK: Correct.

18           THE COURT: If the victim was under  
19           the age of 18, which was the case, you  
20           shall not until you have successfully  
21           attended and completed the sex offender  
22           program. So, is this sex offender program  
23           becoming a condition of probation?

24           MS. BELOHLAVEK: That is not. I  
25           don't believe I circled that one.

1 THE COURT: You did.

2 MR. GOLDBERGER: That's a mistake on  
3 our part. Actually the statute that he is  
4 pleading guilty to does not require the --

5 THE COURT: I understand that, but  
6 you circled it.

7 MS. BELOHLAVEK: I apologize, that  
8 one is not. He has already been in  
9 treatment with a private psychiatrist.

10 THE COURT: Which you find to be an  
11 adequate substitute for sex offender  
12 program?

13 MS. BELOHLAVEK: I -- it is not  
14 required and based upon the evaluation and  
15 my contact with that doctor, I don't  
16 believe it's necessary at this point.

17 THE COURT: Has that been -- I assume  
18 you have a law degree and do not have a  
19 Ph.D in a psychology or MD in psychiatry?

20 MS. BELOHLAVEK: That is correct, I  
21 don't.

22 THE COURT: So it is just your  
23 judgement --

24 MS. BELOHLAVEK: Correct.

25 THE COURT: -- that his treatment

1 with some fancy private psychiatrist or  
2 ~~psychologist in his case is okay?~~

3 MS. BELOHLAVEK: That is correct.

4 THE COURT: So you are not imposing  
5 E?

6 MS. BELOHLAVEK: Correct.

7 THE COURT: F, if the victim was  
8 under the age of 18, you shall not work or  
9 play or as a volunteer in any school, day  
10 care center, park, play ground or other  
11 place where children regularly congregate,  
12 is that understood?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Children will be defined  
15 as anyone under the age of 18. There are a  
16 lot of places where children regularly  
17 congregate. What kind of work do you do?

18 THE DEFENDANT: Banking.

19 THE COURT: Here in Palm Beach  
20 County?

21 THE DEFENDANT: Virgin Islands,  
22 ma'am.

23 THE COURT: You understand you will  
24 not travel from Palm Beach County for the  
25 duration of this?

1 THE DEFENDANT: Yes, ma'am.

2 MR. GOLDBERGER: Your Honor, I'm  
3 sorry to interrupt, we do cover the  
4 employment later in the agreement as to  
5 what he is going to be doing during the one  
6 year that he is on community control.

7 THE COURT: Okay. And let me --  
8 condition G, which is circled, unless  
9 otherwise indicated in the treatment plan  
10 provided by sexual offender treatment  
11 program.

12 MR. GOLDBERGER: That's not in there.

13 THE COURT: Is that what you want?

14 MS. BELOHLAVEK: No.

15 THE COURT: But you do want the, you  
16 will not view, own or possess any obscene  
17 pornographic --

18 MS. BELOHLAVEK: Correct.

19 THE COURT: Okay. But are you saying  
20 that this therapist can okay him to own  
21 certain pornographic material?

22 MS. BELOHLAVEK: No, not at all.

23 MR. GOLDBERGER: No, Your Honor.

24 THE COURT: Would be really helpful  
25 if people read these things before they

1 signed them thoroughly.

2 Unless otherwise indicated in the  
3 treatment plan. I'm just going to strike  
4 out, provided by the sexual offender  
5 treatment program. Is that what you  
6 intend, that his therapist can --

7 MS. BELOHLAVEK: No.

8 THE COURT: No?

9 MS. BELOHLAVEK: No.

10 THE COURT: Unless otherwise  
11 indicated.

12 MR. GOLDBERGER: The parties have  
13 agreed that during the period that he is --  
14 cannot be --

15 THE COURT: Condition G will now  
16 read, you shall not view, own, possess any  
17 obscene, pornographic or sexually  
18 stimulating visual or auditory material  
19 including telephonic, electronic media,  
20 computer program or computer services that  
21 are relevant to your deviant behavior  
22 pattern. And who is going to enforce that?

23 MS. BELOHLAVEK: The community  
24 control officer.

25 THE COURT: How?

1 MS. BELOHLAVEK: They have the  
2 obligation and included in there for  
3 warrantless search to check at any time his  
4 home, his computer, anything he has contact  
5 with.

6 THE COURT: And do they regularly do  
7 that?

8 PROBATION OFFICER: Yes, ma'am.

9 THE COURT: Since we have the  
10 pleasure of having someone from the  
11 Department of Corrections here.

12 Okay. H, you shall submit two  
13 specimens of blood to the Florida  
14 Department of Law Enforcement to be  
15 registered in the DNA data bank.

16 J, you shall submit to a  
17 warrantless search by your probation  
18 officer or community control officer of  
19 your person, residence or vehicle.

20 G -- where is the G?

21 MS. BELOHLAVEK: That was under the  
22 original part, not under the sex offender  
23 one.

24 THE COURT: Okay. Defendant to have  
25 contact with the community control officer

1 at a minimum one time a week.

2 ~~Defendant to work at Florida~~

3 Science Foundation, 250 Australian Avenue,  
4 West Palm Beach, Florida. Is that  
5 volunteer work or work for pay?

6 MR. GOLDBERGER: It is a 501C  
7 corporation that he has formed, Your Honor,  
8 that will be doing charitable work.

9 THE COURT: That he has formed?

10 MR. GOLDBERGER: Yes.

11 THE COURT: What exactly is Florida  
12 Science Foundation?

13 MR. GOLDBERGER: Do you want to  
14 explain?

15 THE DEFENDANT: It funds science  
16 programs around the state and the country.

17 THE COURT: How long has it been in  
18 existence?

19 THE DEFENDANT: Fifteen years.

20 THE COURT: How many programs has it  
21 funded?

22 THE DEFENDANT: Numerous, more than  
23 50.

24 THE COURT: What is your position  
25 with the organization?

1 THE DEFENDANT: President.

2 ~~THE COURT: Is there a board of~~  
3 directors?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Who's on the board of  
6 directors?

7 THE DEFENDANT: Two attorneys.

8 THE COURT: What exactly do you do?

9 THE DEFENDANT: I'm an investment  
10 banker but my --

11 THE COURT: No, no, I mean with the  
12 science foundation.

13 THE DEFENDANT: We fund  
14 science programs --

15 THE COURT: I don't want to know what  
16 we do, I want to know what you do. How  
17 often are you there?

18 THE DEFENDANT: I'm there every day,  
19 I research, I take in people who want to  
20 make presentations about why they need  
21 money for funding medical research,  
22 advanced science research. My background  
23 is in physics. I go through all the  
24 programs in detail, review the science work  
25 potentials, I follow through on a daily

1 basis with what they have been given money  
2 to do.

3 THE COURT: Who are some recent  
4 grantees?

5 THE DEFENDANT: Harvard University.  
6 There is a full program of Evolutionary  
7 Dynamics, Neuro Science Institute of  
8 California, the Physics Institute, MIT.

9 THE COURT: Do you ever have occasion  
10 to deal with anyone under the age of  
11 eighteen?

12 THE DEFENDANT: Not very often. It  
13 is, if someone is in college -- sorry.

14 THE COURT: Right, that's why I'm  
15 asking the question.

16 THE DEFENDANT: Most of the people I  
17 fund are all usually professors.

18 THE COURT: Thank you. You  
19 understand that you can't have contact with  
20 anyone if -- this organization, do they  
21 ever have any involvement with high  
22 schools?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Students or teachers?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Okay.

2 MS. BELOHLAVEK: Those are  
3 duplicates, you will see those are the same  
4 as the ones on the previous page, however,  
5 it was reproduced.

6 THE COURT: The next condition, you  
7 shall maintain a driving log. You shall  
8 not drive a motor vehicle while alone  
9 without prior approval of your supervising  
10 officer.

11 If there was sexual contact, you  
12 shall submit to at probationer's or  
13 community controllee's expense an HIV test  
14 with results to be released to the victims,  
15 victim's parent or guardian -- will be  
16 victims, plural. Has that been done?

17 MR. GOLDBERGER: Not yet.

18 THE COURT: Do we have a time frame  
19 on that? I would think ASAP might be good  
20 on something like that.

21 MS. BELOHLAVEK: I believe they can  
22 actually do that at the jail.

23 THE COURT: At his expense?

24 MS. BELOHLAVEK: Yes.

25 THE COURT: I would request that that

1 be done within 48 hours?

2 You shall not obtain or use a post  
3 office box without prior approval of the  
4 supervising officer.

5 Okay. Are all those conditions  
6 you two have agreed to?

7 MS. BELOHLAVEK: Yes, Your Honor.

8 MR. GOLDBERGER: With the court's  
9 amendments, yes.

10 THE COURT: Mr. Epstein, do you  
11 understand?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: I need the defendant to  
14 sign number D where I had an s added to  
15 victim, and G, we struck out the otherwise  
16 indicated language. Otherwise, it is as  
17 you agreed.

18 Mr. Epstein, do you understand  
19 this is a somewhat complicated terms of the  
20 plea that you've agreed to?

21 THE DEFENDANT: Yes, ma'am

22 THE COURT: Do you have any questions  
23 about the terms of the plea?

24 THE DEFENDANT: No.

25 THE COURT: Can I ask the State why

1           you choose -- or defense and the State  
2           together, why twelve months in the Palm  
3           Beach County jail followed by six months?  
4           Why not just send him to DOC?

5                   MR. GOLDBERGER: It was the agreement  
6           of the parties, Your Honor. We just  
7           decided that was the best way to accomplish  
8           what needed to be done here and the parties  
9           agreed that that sentence satisfied  
10          everyone's requirements.

11                   THE COURT: The taxpayers of Palm  
12          Beach County is going to pay 18 months to  
13          house this guy instead of DOC?

14                   MS. BELOHLAVEK: Right.

15                   THE COURT: You understand we're  
16          losing positions left and right in county  
17          government because we haven't got enough  
18          money but you want -- okay.

19                   His requirement to register there  
20          is many, many -- there is nine pages  
21          outlining the sexual offender's requirement  
22          to register with the department and  
23          penalty, have you read all those,  
24          Mr. Epstein?

25                   THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you understand you  
2 will be required to register and this will  
3 be an ongoing life long obligation?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And this registration  
6 occurs when?

7 MS. BELOHLAVEK: Within 48-hours of  
8 release.

9 THE COURT: So when he gets out of  
10 the Palm Beach County jail, he needs to  
11 register? Okay. And the department -- who  
12 is going to provide him with the form?

13 MR. GOLDBERGER: He actually  
14 registers out at the Sheriff's Office, Your  
15 Honor, we can do it out there.

16 THE COURT: Okay. It has been  
17 brought to my attention that FDLE is the  
18 one who is statutorily required to handle  
19 these registrations but some of our  
20 municipal jurisdictions have taken it upon  
21 themselves to impose additional  
22 requirements, y'all understand that?

23 MS. BELOHLAVEK: Correct.

24 MR. GOLDBERGER: Right.

25 THE COURT: What you are telling him

1 he has to do is the official State of  
2 Florida registration?

3 MS. BELOHLAVEK: Correct.

4 THE COURT: Mr. Epstein, I need to  
5 make sure you understand that that's what's  
6 required by this plea. Anyone on  
7 probation, community control is required to  
8 live and abide by the laws. So if a  
9 jurisdiction you choose to reside in should  
10 have some additional municipal requirements  
11 you will be required in order to comply  
12 with the law of living there, just like you  
13 can't get a parking ticket or speeding  
14 ticket, to comply with those regulations  
15 but I want to make sure you understand  
16 because I have seen some defendants who  
17 have been confused about this. If you  
18 don't, for example, if the Town of Palm  
19 Beach has you register that does not take  
20 care of your requirement. Your requirement  
21 to register with FDLE through the Sheriff's  
22 office is separate, distinct and must be  
23 done on their form according to their  
24 schedule.

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And if my experience the  
2 last few months is of any value, they are  
3 very serious about enforcing this. They  
4 will be tracking you for the rest of your  
5 life. Do not move. Do not go -- I don't  
6 care when you are done with community  
7 control, they need to know exactly where  
8 you are and if you go anywhere without  
9 registering, they will find and you will be  
10 locked up.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. Any questions  
13 about that?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Did you read the plea in  
16 the circuit court form that describes all  
17 the rights you are giving up by entering  
18 this plea?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: I think I asked you  
21 before, can you read?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you under the  
24 influence of alcohol, drugs or medication  
25 today?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Normally taking any  
3 prescribed medication?

4 THE DEFENDANT: Only for cholesterol.

5 THE COURT: Does that interfere with  
6 your mental ability?

7 THE DEFENDANT: No.

8 THE COURT: Do you understand you  
9 have an attorney, you have a right to trial  
10 by jury, there is not going to be a jury  
11 trial. There won't be witnesses called.  
12 That your attorney and you would have a  
13 right to confront and cross examine, do you  
14 understand you have a right to call  
15 witnesses of your own and the court would  
16 issue subpoenas to compel their attendance  
17 just like any other witness called by the  
18 State, that you have the right -- absolute  
19 right to remain silent and that you would  
20 not have to say or do anything at the trial  
21 if there were a trial, do you understand  
22 those rights?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you understand if you  
25 are not a United States citizen your plea

1           could subject you to deportation pursuant  
2           to the laws and regulations governing the  
3           United States Immigration and  
4           Naturalization Service and this court has  
5           no jurisdiction or authority in such  
6           matters, do you understand that?

7                     THE DEFENDANT: Yes.

8                     THE COURT: Has anybody threatened  
9           you, coerced you or promised you anything  
10          other than the terms of this plea to get  
11          you to enter this plea?

12                    THE DEFENDANT: No.

13                    THE COURT: Do you understand this is  
14          a plea in criminal court?

15                    THE DEFENDANT: Yes, ma'am.

16                    THE COURT: This has -- in criminal  
17          court in Palm Beach County, State of  
18          Florida. I have absolutely nothing to do  
19          with any civil matters or matters in any  
20          other jurisdiction, do you understand that?

21                    THE DEFENDANT: Yes, ma'am.

22                    THE COURT: Is this plea in any way  
23          tied to any promises or representations by  
24          any civil attorneys or other jurisdictions?

25                    MR. GOLDBERGER: May we come sidebar

1 on that, Your Honor?

2 THE COURT: It is going to be  
3 recorded.

4 MR. GOLDBERGER: That's fine.

5 THE COURT: Defendant needs to  
6 approach as well.

7 (Whereupon, there was a conference at  
8 the bench.)

9 MR. GOLDBERGER: The reason why I  
10 asked to come sidebar, there is a  
11 nonprosecution agreement with the United  
12 States Attorney's office that triggers as a  
13 result of this plea agreement. In other  
14 words, they have signed off and said they  
15 will not prosecute Mr. Epstein in the  
16 Southern District of Florida for any  
17 offense upon his successful taking of this  
18 plea today. That is a confidential  
19 document that the parties have agreed to.  
20 Just in an abundance of caution, I wanted  
21 to tell the court.

22 THE COURT: I understand, that would  
23 also be invalidated should he violate his  
24 community control?

25 MR. GOLDBERGER: Absolutely. That

1 nonprosecution agreement --

2 MS. BELOHLAVEK: They spell all that  
3 out.

4 THE COURT: Mr. Epstein needs to come  
5 closer.

6 Mr. Epstein, your attorney has  
7 told me that in addition to everything, we  
8 talked about another Inducement, shall we  
9 say, to your taking this plea is that the  
10 U.S. Attorney for the Southern District of  
11 the State of Florida, federal prosecutor,  
12 has agreed to a nonprosecution agreement  
13 with you, meaning that if you successfully  
14 complete probation and do everything you're  
15 supposed to, they have, have agreed not to  
16 prosecute you federally, did you understand  
17 that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And I would view that as  
20 a significant inducement in accepting this  
21 plea.

22 MS. BELOHLAVEK: They are actually in  
23 court here today, also.

24 THE COURT: Okay.

25 MR. GOLDBERGER: And the plea

1 agreement very carefully spelled out if  
2 ~~there was a breach that would violate this~~  
3 agreement, so we are well aware of it.

4 THE COURT: Okay. I would request  
5 that a sealed copy of that -- Mr. Epstein  
6 has signed that document?

7 MR. GOLDBERGER: Yes, I would like to  
8 seal the copy.

9 THE COURT: I want a sealed copy of  
10 that filed in this case. That is the only  
11 other condition of the agreement that is  
12 influencing this defendant to make this  
13 decision?

14 MR. GOLDBERGER: Absolutely. I think  
15 that's the right idea.

16 (Return to open court.)

17 THE COURT: Mr. Epstein, is there  
18 anything else?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Because I don't take  
21 these pleas unless they are freely and  
22 voluntarily made.

23 THE DEFENDANT: I understand that.

24 THE COURT: I also don't want  
25 somebody or anybody coming back a year,

1 two years from now saying, oh no, no, they  
2 ~~beat me over the head or if there is~~  
3 anything else that is influencing you to  
4 make this decision, then I need to know  
5 about it.

6 THE DEFENDANT: I understand that.

7 MR. GOLDBERGER: Thank you.

8 THE DEFENDANT: Thank you very much,  
9 Your Honor.

10 (Return to open court.)

11 THE COURT: All right, Mr. Epstein,  
12 any questions about the rights you are  
13 giving up by entering this plea?

14 THE DEFENDANT: No ma'am.

15 THE COURT: State, please give me a  
16 factual basis.

17 MS. BELOHLAVEK: In 069454 CF AMB,  
18 between August 1, 2004 and October 31,  
19 2005, the defendant in Palm Beach County  
20 did solicit or procure someone to commit  
21 prosecution on three or more occasions.

22 And in 08 CF 9381 CF AMB between  
23 August 1, 2004 and October 9, 2005, the  
24 defendant did procure a minor under the age  
25 of 18 to commit prostitution in Palm Beach

1 County also.

2 THE COURT: I find a sufficient  
3 factual basis to support the pleas.

4 Are all of the victims in both of  
5 these cases in agreement with the terms of  
6 this plea?

7 MS. BELOHLAVEK: I have spoken to  
8 several myself and I have spoken to  
9 counsel, through counsel as to the other  
10 victim, and I believe, yes.

11 THE COURT: And with regard to the  
12 victims under age eighteen, is that  
13 victim's parents or guardian in agreement  
14 with the plea?

15 MS. BELOHLAVEK: That victim is not  
16 under age 18 any more and that's why we  
17 spoke with her counsel.

18 THE COURT: And she is in agreement  
19 with the plea?

20 MS. BELOHLAVEK: Yes.

21 THE COURT: And community control  
22 will be given information concerning how to  
23 contact these victims?

24 MS. BELOHLAVEK: Yes.

25 THE COURT: Confidentially. That

1 information will not be related to the  
2 defendant but will be used exclusively for  
3 purposes of verifying compliance with this  
4 agreement?

5 MS. BELOHLAVEK: Yes.

6 THE COURT: Is there anything else  
7 from anybody else before I accept this  
8 plea?

9 MR. GOLDBERGER: No, Your Honor.

10 THE COURT: Mr. Goldberger, if it is  
11 your desire, you may enter your client's  
12 plea.

13 MR. GOLDBERGER: Thank you, Your  
14 Honor, at this time we would withdraw our  
15 previously entered pleas of not guilty,  
16 enter pleas of guilty pursuant to  
17 negotiations with the State.

18 THE COURT: Mr. Epstein, I am going  
19 to accept those pleas on your behalf. I  
20 find you are intelligent, alert, you  
21 understand what is going on here and the  
22 consequence of entering this plea, you are  
23 doing it freely and voluntarily.

24 Pursuant to the plea, I am waiving  
25 a PSI, I will sentence you at this time

1           pursuant to it. I will adjudicate you  
2           guilty of felony solicitation of  
3           prostitution, a third degree felony, case  
4           number 06 CF 00945A -- 454 AMB, and  
5           procuring a person under 18 for  
6           prostitution, a second degree felony 08 CF  
7           009381AMB.

8                         With respect to the solicitation  
9           of prosecution, I will sentence you to  
10          twelve months in the Palm Beach County  
11          detention facility with credit for the one  
12          day served.

13                        With respect to 08 CF 009381, I  
14          will sentence you to six months in the Palm  
15          Beach County detention facility, with  
16          credit for the one day served. That six  
17          month sentence is to be served consecutive  
18          to the twelve month sentence.

19                        Following the six month sentence  
20          you will be placed on 12 months of  
21          community control. That will be on both  
22          cases, I assume, to run concurrently,  
23          correct?

24                        MS. BELOHLAVEK: Only on the 08 case.

25                        THE COURT: Only on the second degree

1 felony?

2 MS. BELOHLAVEK: Correct, the one  
3 that designates him a sexual offender.

4 THE COURT: Okay. So only on case  
5 number 08 CF 009381AMB will you be on one  
6 year community control which would then  
7 invoke a potential penalty of fifteen years  
8 were you to violate.

9 The special conditions are that  
10 you are to have no unsupervised contact  
11 with minors and the supervising adult must  
12 be approved by the Department of  
13 Corrections. You are to be designated a  
14 sexual offender pursuant to Florida Statute  
15 943.0435 and you must abide by all  
16 requirements of that statute which I have  
17 read and we have discussed.

18 You will remain confined to your  
19 residence except one half hour before and  
20 after your approved employment, community  
21 service work or other activities approved  
22 by your probation officer. You will  
23 maintain an hourly accounting of all your  
24 activity on a daily log which you submit to  
25 the supervising officer upon request.

1                   You will be residing at 358 E1

2 ~~Brillo Way, Palm Beach, Florida 33480.~~

3                   Should you desire to move or go to a  
4                   different location upon release from  
5                   custody, you will get preapproval of that  
6                   location from the Department of  
7                   Corrections. You will have to contact your  
8                   community control officer a minimum of once  
9                   a week, it can be more often at their  
10                  discretion and you are to work at the  
11                  Florida Science Foundation at 250  
12                  Australian Avenue in West Palm Beach,  
13                  Florida. You will submit to a mandatory  
14                  curfew of 10 p.m. to 6 a.m.

15                  You shall not live within a  
16                  thousand feet of a school, day care center,  
17                  park, playground or other place where  
18                  children congregate. You shall not have  
19                  any contact with the victims, directly or  
20                  indirectly including through a third person  
21                  unless approved by victim's therapist and  
22                  the sentencing court.

23                  You shall not work for pay or as a  
24                  volunteer at any school, day care center  
25                  park, play ground, other place where

1 children may congregate. You shall not  
2 view, own or possess any obscene  
3 pornographic or sexually stimulating or  
4 visual, auditory material including  
5 telephone, electronic media, computer  
6 programs, computer services that are  
7 relevant to deviant behavior.

8 You shall submit two specimens of  
9 blood to Florida Department of Law  
10 Enforcement to be registered with the DNA  
11 data bank. You shall submit to a  
12 warrantless search by the probation officer  
13 or community control officer of your  
14 person, residence or vehicle.

15 You shall maintain a driving log.  
16 You shall not drive a motor vehicle while  
17 alone without prior approval of the  
18 supervising officer.

19 You shall submit to, at  
20 probationer or community control expense a  
21 HIV test, the result of which is to be  
22 released to the victims or victim's parent  
23 or guardian. That has to be done within 48  
24 hours.

25 You shall not obtain or a use post

1 office box without the prior approval of  
2 the supervising officer.

3 MS. BELOHLAVEK: You forgot one that  
4 you may not possess, own or view sexually  
5 stimulating -- I don't believe you read  
6 that outloud just now.

7 THE COURT: Yes, I did.

8 MS. BELOHLAVEK: I'm sorry, I didn't  
9 hear it. I just wanted to make sure.

10 THE COURT: And the warrantless  
11 search by the community control officer of  
12 the person, residence or vehicle --  
13 understand the person, residence or vehicle  
14 includes anything you might possess like  
15 computer, a cell phone and whatever other  
16 elaborate devices there are to communicate  
17 electronically these days, okay. Good  
18 luck.

19 MR. GOLDBERGER: Thank you.

20 MS. BELOHLAVEK: Thank you.

21 THE COURT: Is there a judgment?

22 MR. GOLDBERGER: Yes, there should be  
23 judgments.

24 THE COURT: Was there a condition of  
25 community control that he pay or is he

1 paying it?

2 ~~MR. GOLDBERGER: Actually there is a~~

3 cash bond posted, court cost can be

4 deducted from the cash bond.

5 THE COURT: \$574 is the total?

6 MS. BELOHLAVEK: Correct.

7 THE COURT: Is that to cover both

8 cases?

9 MR. GOLDBERGER: Yes.

10 THE COURT: Thank you.

11 MR. GOLDBERGER: Thank you, Your

12 Honor.

13 (Whereupon, at 9:48 o'clock a.m. the

14 proceedings before the Court, concluded.)

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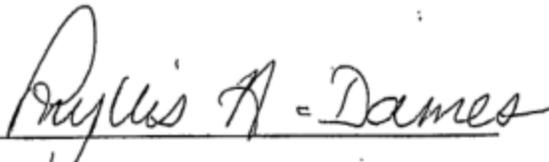
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THE STATE OF FLORIDA,  
COUNTY OF PALM BEACH.

I, PHYLLIS A. DAMES, Official Court Reporter for the Fifteenth Judicial Circuit, Criminal Division, in and for Palm Beach County, Florida; do hereby certify that I was authorized to and did report the foregoing proceedings before the Court at the time and place aforesaid; and that the preceding pages numbered from 1 through 49, inclusive, represent a true and accurate transcription of my stenonotes taken at said proceedings.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 19th day of July, 2008.

  
PHYLLIS A. DAMES

PHYLLIS A. DAMES, OFFICIAL COURT REPORTER



LEGAL  
DIRECT PRODUCTS & SERVICES  
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TO REORDER CALL 954-846-9399

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

Name: Jeffrey E. Epstein

Plea: Guilty X

<u>Case No.</u>	<u>Charge</u>	<u>Count</u>	<u>Lesser</u>	<u>Degree</u>
06CF009454AMB	Felony Solicitation of Prostitution	1	No	3 FEL
08CF009381AMB	Procuring Person Under 18 for Prostitution	1	No	2 FEL

PSI: Waived/Not Required X Required/Requested \_\_\_\_\_

**ADJUDICATION:** Adjudicate [x ]

**SENTENCE:**

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

On 08CF009381AMB, the Defendant is sentenced to 18 months Community Control 1 (one). As a special condition of this Community Control, the Defendant must serve the first 6 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. This sentence is to be served consecutive to the 12 month sentence in 06CF009454AMB. The conditions of community control are attached hereto and incorporated herein.

**OTHER COMMENTS OR CONDITIONS:**

Court Costs: \$474.00 Cost of Prosecution: \$50.00 Drug Trust Fund: \$50.00

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

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

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

\_\_\_\_\_  
Assistant State Attorney

\_\_\_\_\_  
Attorney for the Defendant

\_\_\_\_\_  
Date of Plea

\_\_\_\_\_  
Defendant

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

Name: Jeffrey E. Epstein

Plea: Guilty X

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

PSI: Waived/Not Required X Required/Requested \_\_\_\_\_

**ADJUDICATION:** Adjudicate [x ]

**SENTENCE:**

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

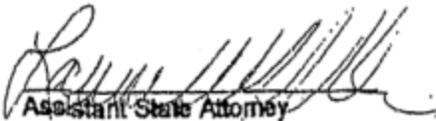
On 08CF009381AMB, the Defendant is sentenced to 6 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. <sup>with a jail sentence</sup> This 6 month sentence is to be served consecutive to the 12-month sentence in 06CF009454AMB. Following this 6 month sentence,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

**OTHER COMMENTS OR CONDITIONS:**

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

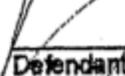
The Defendant is designated as a Sexual Offender pursuant to Florida Statute 943.0435 and must abide by all the corresponding requirements of the statute, a copy of which is attached hereto and incorporated herein.

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

  
 Assistant State Attorney

  
 Attorney for the Defendant

6/30/08  
 Date of Plea

  
 Defendant

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

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

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

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

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

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

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

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



1943.0435 Sexual offenders required to register with the department; penalty.--

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

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

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

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

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

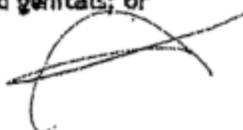
c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following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

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

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

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

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



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

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

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

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

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

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

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

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

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

(2) A sexual offender shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.062, s. 775.063, or s. 775.064.

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

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

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

(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile

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

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

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

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A handwritten signature or mark, possibly a stylized '2' or a similar symbol, located in the lower right quadrant of the page.

STATE OF FLORIDA  
Plaintiff

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

-VS-

JEFFREY E. EPSTEIN  
Defendant

CASE NUMBER 02008CF009381AXXXMB  
DIVISION MCSORLEY "W"  
DC NUMBER W35755  
CIRCUIT NUMBER: 15-4/JAIL SPLIT

**ORDER OF COMMUNITY CONTROL I**

This cause coming before the Court to be heard, and you, the defendant, being now present before the court, and you having

- entered a plea of guilty to
- entered a plea of nolo contendere to
- been found guilty by jury verdict of
- been found guilty by the court trying the case without a jury of

Count 1: PROCURE PERSON UNDER AGE OF 18 FOR PROSTITUTION

**SECTION 1: JUDGMENT OF GUILT**

- The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on Probation I for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

**SECTION 2: ORDER WITHHOLDING ADJUDICATION**

- Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on Probation for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

**SECTION 3: INCARCERATION DURING PORTION OF SUPERVISION SENTENCE**

It is hereby ordered and adjudged that you be:

- committed to the Department of Corrections or confined in the County Jail for a term of \_\_\_\_\_ with credit for \_\_\_\_\_ jail time. After you have served \_\_\_\_\_ of the term, you shall be placed on Probation for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.
- confined in the County Jail for a term of SIX (6) MONTHS AS TO COUNT 1 FOLLOWED BY TWELVE (12) MONTHS COMMUNITY CONTROL I CONSECUTIVE TO THE (12) MONTH SENTENCE IN CASE# 2008CF00945AAMB with credit for ONE (1) DAY jail time, as a special condition of supervision.

SHARON R. BOCK, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CRIMINAL

2008 JUL 21 PM 4:55

FILED

JEFFREY EPSTEIN  
CASE#502008CF009381AXXXMB

IT IS FURTHER ORDERED that you shall comply with the following standard conditions of supervision as provided by Florida law:

- (1) You will report to the probation office as directed. Not later than the fifth day of each month, unless otherwise directed, you will make a full and truthful report to your officer on the form provided for that purpose.
- (2) You will pay the State of Florida the amount of \$50.00 per month, as well as 4% surcharge, toward the cost of your supervision in accordance with s. 948.09, F.S., unless otherwise exempted in compliance with Florida Statutes.
- (3) You will remain in a specified place. You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.
- (4) You will not possess, carry or own any firearm or weapon, unless authorized by the court.
- (5) You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your probation/community control.
- (6) You will not associate with any person engaged in any criminal activity.
- (7) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs or other dangerous substances are unlawfully sold, dispensed or used.
- (8) You will work diligently at a lawful occupation, advise your employer of your probation status, and support any dependents to the best of your ability, as directed by your officer.
- (9) You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.
- (10) You will pay restitution, court costs, and/or fees in accordance with special conditions imposed or in accordance with the attached orders.
- (11) You will submit to random testing as directed by your officer or the professional staff of the treatment center where he/she is receiving treatment to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.
- (12) You will submit two biological specimens, as directed by your officer, for DNA analysis as prescribed in ss. 943.325 and 948.014, F.S.
- (13) You will report in person within 72 hours of your release from incarceration to the probation office in PALM BEACH County, Florida, unless otherwise instructed by the court or department. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at 3444 SOUTH CONGRESS AVENUE, LAKE WORTH, FL 33461.

JEFFREY EPSTEIN  
CASE#S02008CFD09381AXXXX03

**SPECIAL CONDITIONS**

1. You must undergo a Drug and Alcohol evaluation and, if treatment is deemed necessary, you must successfully complete the treatment, and be responsible for the payment of any costs incurred while receiving said evaluation and treatment, unless waived by the court.  
Additional instructions ordered: \_\_\_\_\_

2. You will make restitution to the following victim(s), as directed by the court, until the obligation is paid in full:  
NAME: \_\_\_\_\_  
TOTAL AMOUNT: \$ \_\_\_\_\_  
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: \_\_\_\_\_

NAME: \_\_\_\_\_  
TOTAL AMOUNT: \$ \_\_\_\_\_  
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: \_\_\_\_\_

**SPECIAL CONDITIONS - CONTINUED**

3. You will enter the Department of Corrections Non-Secure Drug Treatment Program or other residential treatment program/Probation and Restitution Center for a period of successful completion as approved by your officer. You are to remain until you successfully complete said Program and Aftercare. You are to comply with all Rules and Regulations of the Program. You shall be confined in the county jail until placement in said program, and if you are confined in the jail, the Sheriff will transport you to said program.

4. You will abstain entirely from the use of alcohol and/or illegal drugs, and you will not associate with anyone who is illegally using drugs or consuming alcohol.

5. You will submit to urinalysis testing on a monthly basis to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.

6. You will not visit any establishment where the primary business is the sale and dispensing of alcoholic beverages.

7. You will successfully complete \_\_\_\_\_ hours of community service at a rate of \_\_\_\_\_, at a work site approved by your officer.  
Additional instructions ordered: \_\_\_\_\_

8. You will remain at your residence between 10 p.m. and 6 a.m. due to a curfew imposed, unless otherwise directed by the court.

9. You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ \_\_\_\_\_ per month for the cost of the monitoring service, unless otherwise directed by the court.

10. You will not associate with \_\_\_\_\_ during the period of supervision.

11. You will have no contact (direct or indirect) with the victim or the victim's family during the period of supervision.

12. You will have no contact (direct or indirect) with \_\_\_\_\_ during the period of supervision.

13. You will maintain full time employment or attend school/vocational school full time or a combination of school/work during the term of your supervision.

14. You will make a good faith effort toward completing basic or functional literacy skills or a high school equivalency diploma.

15. You will successfully complete the Probation & Restitution Program, abiding by all rules and regulations.

JEFFREY EPSTEIN  
CASE#502008CF009381AXXXMB

- 16. You will attend Alcoholics Anonymous or Narcotics Anonymous meetings at least monthly, unless otherwise directed by the court.
- 17. You must successfully complete Anger Management, and be responsible for the payment of any costs incurred while receiving said treatment, unless waived. If convicted of a Domestic Violence offense, as defined in s. 741.28, F.S., you must attend and successfully complete a batterer's intervention program, unless otherwise directed by the court.  
Additional instructions ordered: \_\_\_\_\_
- 18. You will attend an HIV/AIDS Awareness Program consisting of a class of not less than two (2) hours or more than four (4) hours in length, the cost for which will be paid by you.
- 19. You shall submit your person, property, place of residence, vehicle or personal effects to a warrantless search at any time, by any probation or community control officer or any law enforcement officer.
- 20. DEFENDANT MUST REGISTER AS A SEXUAL OFFENDER WITHIN 48 HOURS OF RELEASE
- 21. AS A SPECIAL CONDITION OF HIS COMMUNITY CONTROL, THE DEFENDANT IS TO HAVE NO UNSUPERVISED CONTACT WITH MINORS, AND THE SUPERVISING ADULT MUST BE APPROVED BY THE DEPARTMENT OF CORRECTIONS
- 22. THE DEFENDANT IS DESIGNATED AS A SEXUAL OFFENDER PURSUANT TO FLORIDA STATUTE 943.05 AND MUST ABIDE BY ALL THE CORRESPONDING REQUIREMENTS OF THE STATUTE, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN
- 23. DEFENDANT MUST PROVIDE A DNA SAMPLE IN COURT AT THE TIME OF THIS PLEA.
- 24. SPECIFIED CONTACT WITH THE PAROLE AND PROBATION OFFICER
- 25. CONFINEMENT TO AN AGREED-UPON RESIDENCE DURING HOURS AWAY FROM EMPLOYMENT AND PUBLIC SERVICE ACTIVITIES
- 25. MANDATORY PUBLIC SERVICE
- 26. SUPERVISION, BY THE DEPARTMENT OF CORRECTIONS BY MEANS OF AN ELECTRONIC MONITORING DEVICE OR SYSTEM
- 27. ELECTRONIC MONITORING 24 HOURS PER DAY
- 28. CONFINEMENT TO A DESIGNATED RESIDENCE DURING DESIGNATED HOURS

AND, IF PLACED ON DRUG OFFENDER PROBATION, YOU WILL COMPLY WITH THE FOLLOWING CONDITION OF SUPERVISION IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

(14) You will participate in a specialized drug treatment program, either as an in-patient or out patient, as recommended by the treatment provider. You will attend all counseling sessions, submit to random urinalysis and, if an in-patient, you will comply with all operating rules, regulations and procedures of the treatment facility. You will pay for all costs associated with treatment and testing unless otherwise directed.  
Additional instructions ordered: \_\_\_\_\_

(15) You will remain at your residence between \_\_\_\_\_ p.m. and \_\_\_\_\_ a.m. due to a curfew imposed, unless otherwise directed by the court.

AND, IF PLACED ON COMMUNITY CONTROL, YOU WILL COMPLY WITH THE FOLLOWING CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

JEFFREY EPSTEIN  
CASE#302008CF009381AXXXMB

- (14) You will report to your officer as directed, at least one time a week, unless you have written consent otherwise.
- (15) You will remain confined to your approved residence except for one half hour before and after your approved employment, public service work, or any other special activities approved by your officer.
- (16) You will maintain an hourly accounting of all your activities on a daily log, which you will submit to your officer on request.
- (17) You will successfully complete \_\_\_\_\_ hours of community service at a rate of \_\_\_\_\_, at a work site approved by your officer.  
Additional instructions ordered: \_\_\_\_\_
- (18) You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ \_\_\_\_\_ per month for the cost of the monitoring service, unless otherwise directed by the court.

**AND, IF PLACED ON PROBATION OR COMMUNITY CONTROL FOR A SEX OFFENSE PROVIDED IN CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145, COMMITTED ON OR AFTER OCTOBER 1, 1995 YOU WILL COMPLY WITH THE FOLLOWING STANDARD SEX OFFENDER CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:**

- (14) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.
- (15) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.
- (16) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the offender's own expense. If a qualified practitioner is not available within a 50-mile radius of the offender's residence, the offender shall participate in other appropriate therapy.
- (17) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.
- (18) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time.
- (19) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to any school, day care center, park, playground, pet store, library, zoo, theme park, or mall.
- (20) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.
- (21) A requirement that the offender submit two specimens of blood or other approved biological specimens to the Florida Department of Law Enforcement to be registered with the DNA data bank.
- (22) A requirement that the offender make restitution to the victim, as ordered by the court under s. 775.082, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.
- (23) Submission to a warrantless search by the community control or probation officer of the offender's person, residence, or vehicle.

JEFFREY EPSTEIN  
CASE#302008CP009381AXXXMB

**EFFECTIVE FOR PROBATIONER OR COMMUNITY CONTROLLED WHOSE CRIME WAS COMMITTED ON OR AFTER OCTOBER 1, 1997, AND WHO IS PLACED ON COMMUNITY CONTROL OR SEX OFFENDER PROBATION FOR A VIOLATION OF CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145. IN ADDITION TO ANY OTHER PROVISION OF THIS SECTION, YOU MUST COMPLY WITH THE FOLLOWING CONDITIONS OF SUPERVISION:**

- (24) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid by the sex offender.
- (25) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.
- (26) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.
- (27) If there was sexual contact, a submission to, at the offender's expense, an HIV test with the results to be released to the victim and/or the victim's parent or guardian.
- (28) Electronic monitoring when deemed necessary by the probation officer and supervisor, and ordered by the court at the recommendation of the Department of Corrections.
- (29) Effective for an offender whose crime was committed on or after July 1, 2005, and who are placed on supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.
- (30) Effective for offenders whose crime was committed on or after September 1, 2005, there is hereby imposed, in addition to any other provision in this section, mandatory electronic monitoring as a condition of supervision for those who:
  - Are placed on supervision for a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older; or
  - Are designated as a sexual predator pursuant to s. 775.21; or
  - Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.

You are hereby placed on notice that should you violate your probation or community control, and the conditions set forth in s. 948.063(1) or (2) are satisfied, whether your probation or community control is revoked or not revoked, you shall be placed on electronic monitoring in accordance with F.S. 948.063.

**YOU ARE HEREBY PLACED ON NOTICE** that the court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication of guilt was withheld, and impose any sentence that it might have imposed before placing you on probation or require you to serve the balance of the sentence.

JEFFREY EPSTEIN  
CASE#502008CP009381AXXXMB

IT IS FURTHER ORDERED that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody; and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. (This paragraph applies only if section 1 or section 2 is checked.)

IT IS FURTHER ORDERED that the clerk of this court file this order in the clerk's office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, on July 8, 2008

NUNC PRO TUNC 06-30-2008

Sandra K. McSorley  
Sandra K. McSorley, Circuit Judge

I acknowledge receipt of a copy of this order and that the conditions have been explained to me and I agree to abide by them.

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

Defendant \_\_\_\_\_

Instructed by: \_\_\_\_\_  
Supervising Officer

ep/07-02-08

JEFFREY EPSTEIN  
CASE#S02008CF009381AXXXMB

**COURT ORDERED PAYMENTS**

**CHECK ALL THAT ARE ORDERED:**

**FINES**

- \$ \_\_\_\_\_ Total of fines assessed in sentence, pursuant to s. 775.083 (1)(a) through (g) or Chapter 316, F.S.
- \$ \_\_\_\_\_ Statutorily mandated 5% surcharge/boost if fine assessed (on first line) pursuant to s. 938.04, F.S.
- \$ 20.00 Crime Stoppers Trust Fund pursuant to s. 938.06(1), F.S. Statutorily mandated if a fine is imposed.

**MANDATORY COSTS IN ALL CASES**

- \$ 200.00 Additional court cost for felony offense, pursuant to s. 938.05(1)(a), F.S.
- \$ 50.00 Additional court cost for misdemeanor or criminal traffic offense, pursuant to s. 938.05(1)(b) or (c), F.S.
- \$ 50.00 Crimes Compensation Trust Fund pursuant to s. 938.03(1), F.S.
- \$ 50.00 County Crime Prevention Fund pursuant to s. 775.083(2), F.S.
- \$ 3.00 Additional Court Costs Clearing Trust Fund pursuant to s. 938.01(1), F.S.
- \$ 3.00 Per month for each month of supervision for Training Trust Fund Surcharge, pursuant to s. 948.09, F.S.

**MANDATORY COSTS IN SPECIFIC TYPES OF CASES**

- \$ 150.00 Rape Crisis Program Trust Fund, pursuant to s. 938.085, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, or 794.011, F.S.
- \$ 200.00 Domestic Violence Trust Fund, pursuant to s. 938.08, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, 794.011, or any offense of Domestic Violence described in s. 741.28, F.S.
- \$ 100.00 Certain Crimes Against Minors, pursuant to s. 938.10(1), F.S. for any violations of s. 784.085, chapter 787, chapter 794, s. 796.03, s. 800.04, chapter 827, s. 847.0145, or s. 985.701, F.S.
- \$ 135.00 DUI Court Costs, pursuant to s. 938.07, F.S. for any violations of ss. 316.193 or 327.35, F.S.
- \$ 3.00 State Agency Law Enforcement Radio System Trust Fund, pursuant to s. 318.18(17), F.S. for any violations of offenses listed in s. 318.17 including ss. 316.1935, 316.027, 316.061, 877.111, chapter 893, ss. 316.193, 316.192, 316.067, 316.072(3), 316.545(1), or any other offense in chapter 316 which is classified as a criminal violation.

**MANDATORY COURT COSTS AUTHORIZED BY LOCAL GOVERNMENTAL ENTITIES**

- \$ 3.00 Criminal Justice Education by Municipalities and Counties, pursuant to s. 938.15, F.S.
- \$ 65.00 Additional court costs for local requirements and other county funded programs pursuant to s. 939.185(1)(a), F.S.
- \$ 3.00 Tens Court pursuant to s. 938.19(2), F.S.

**DISCRETIONARY**

- \$ 1.00 Per month during the term of supervision to the following nonprofit organization established for the sole purpose of supplementing the rehabilitative efforts of the Department of Corrections, pursuant to s. 948.039(2), F.S. \_\_\_\_\_
- \$ 40.00 Public Defender Application Fee, if not previously collected or waived, pursuant to s. 27.52 and s. 938.29, F.S.
- \$ \_\_\_\_\_ Public Defender Fees and Costs, pursuant to s. 938.29, F.S. as determined locally.
- \$ 80.00 Prosecution/Investigative Costs, pursuant to s. 938.27, F.S.

- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

**DISCRETIONARY COSTS FOR SPECIFIC TYPES OF CASES**

- \$ 80.00 County Alcohol and Other Drug Abuse Trust Fund, pursuant to s. 938.21 and s. 938.23, F.S. for violations of s. 316.193, s. 856.011, s. 856.013, or chapter 562, chapter 567, or chapter 568, F.S.
- \$ 100.00 Operating Trust Fund of the FDLE, pursuant to s. 938.25, F.S. for violations of s. 893.13 offenses

\* TOTAL, \$ 473.00

PAYMENT IS TO BE MADE THROUGH AND PAYABLE TO:  Department of Corrections or  Clerk of Court

(If collected by the Department of Corrections, a surcharge of 4% will be added to all payments ordered by the court, pursuant to s. 945.31, F.S.)

- Court Costs/Fines Waived
- Court Costs/Fines in the amount of \_\_\_\_\_ converted to \_\_\_\_\_ community service hours
- Court Costs/Fines in the amount of \_\_\_\_\_ reduced to civil judgment.

SPECIFIC INSTRUCTIONS FOR PAYMENT: \_\_\_\_\_



**GTS** RECYCLED PAPER

TO REORDER CALL 954-846-9399

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

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.

CASE NO.: 2006CF009454AXX  
DIVISION: "W"

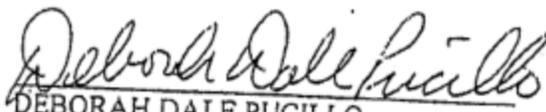
2008-2 [unclear]

AGREED ORDER SEALING DOCUMENT IN COURT FILE

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

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

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

  
DEBORAH DALE PUCILLO  
Circuit Court Judge

Copies forwarded to:

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

Lanna Belohlavek, Esq.  
Assistant State Attorney  
(interoffice)

AB JUL 03 2008



RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

STATE OF FLORIDA,

vs.

Case Nos. 2006-CF9454 AXX

JEFFREY EPSTEIN,

2008-9381CF AXX

Defendant.

**NONPARTY E.W.'S MOTION TO VACATE ORDER SEALING RECORDS AND  
UNSEAL RECORDS**

E.W., a nonparty, moves pursuant to the Rules of Judicial Administration Rule 2.420(d)(5) to vacate the order sealing records and unseal two documents in these files on the following grounds:

1. EW is a victim of sexual abuse by defendant who was convicted of procuring a person under 18 for prostitution and felony solicitation of prostitution. See attached judgments of conviction (Exhibit "A"). E.W. presently has a pending civil action in this court against defendant for damages. Case number 502008CA.028058XXXXMB AB.

2. On June 30, 2008 and August 25, 2008, this Court sealed two documents, a non-prosecution agreement and an addendum to non-prosecution agreement. See attached copies of envelopes containing the sealed documents and also an Agreed Order Sealing Document In Court File entered July 2, 2008 (Exhibit "B").

3. The sealing of these documents was done without written motion required by Rule 2.420(d)(1) or notice to the public, the media, the record newspaper and the victims of defendant required by Rule 2.420(d)(2). The Agreed Order does not set forth the

grounds set forth in Rule 2.420(d)(3). The clerk of court did not post a copy of the notice of the order as required by Rule 2.420(d)(4).

4. The sealing of these documents was also done contrary to the Administrative Orders of this Court, AO 2.104, 2.032, 2.303 and 11.046.

5. The request to seal the first document was made orally at the plea hearing on June 30, 2008. A copy of the relevant portion of the transcript is attached (see pages 38-40) (Exhibit "C").

6. It is against public policy for these documents to have been sealed and hidden from public scrutiny. As a member of the public, E.W. has a right to have these documents unsealed. Furthermore, these documents are relevant and material to E.W.'s civil action against defendant. As stated in the plea colloquy, they were an inducement for defendant to enter into his guilty pleas. They are proper objects of discovery. However, unless they are unsealed, E.W. is unable to obtain them or utilize them in her case.

7. Pursuant to Rule 2.420(d)(5), the Court must hold a hearing on this motion in open court.

WHEREFORE movant requests the Court vacate the order sealing records and unseal the two documents.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail and Facsimile this 12 day of May, 2009 to: Jack Alan Goldberger, Esq., Atterbury Goldberger et al., 250 Australian Ave. South, Suite 1400, West Palm Beach, FL 33401.

ROTHSTEIN ROSENFELDT ADLER

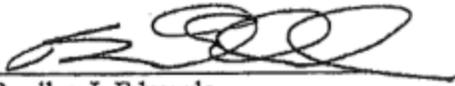
Attorneys for Plaintiff

401 East Las Olas Blvd., Suite 1650

Fort Lauderdale, Florida 33394

Telephone (954) 522-3456

Telecopier (954) 527-8663

By: 

Bradley J. Edwards

Florida Bar No. 542075

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

William J. Berger

Florida Bar No. 197701

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

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

CASE NO. 06-01-0154-AAA-W

OBTS NUMBER 2006 CF 4454AXX

STATE OF FLORIDA

COMMUNITY CONTROL VIOLATOR

PROBATION VIOLATOR

Jeffrey E. Epstein

DEFENDANT

1/20/53  
 DATE OF BIRTH

W  
 RACE

M  
 GENDER

SOCIAL SECURITY NUMBER

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

**JUDGMENT**

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

Having been tried and found guilty of the following crime(s):

Having entered a plea of guilty to the following crime(s):

Having entered a plea of nolo contendere to the following crime(s):

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

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

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

and good cause being shown IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

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

SENTENCE DEFERRED  The Court hereby defers imposition of sentence until \_\_\_\_\_.

The Defendant in Open Court has a right of appeal from the judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this judgment. The defendant waives a right of appeal from the judgment of conviction in taking no appeal at the expense of the State upon filing of this judgment.

IT IS SO ORDERED by Open Court at Palm Beach County, Florida, on

Debra Dale Hunt

CIRCUIT COURT CLERK

EXHIBIT  
**A**

30 June 2008

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

CASE NO. 08 CF 9381 AAB DIV. W

OBTS NUMBER 2008CF9381/XY



CFN 20080267252  
OR BK 22760 PG 0565  
RECORDED 07/17/2008 08:06:42  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pg 0565; (1pg)

STATE OF FLORIDA

COMMUNITY CONTROL VIOLATOR

PROBATION VIOLATOR

Jeffrey E. Epstein  
DEPENDANT

1/20/53  
DATE OF BIRTH

W  
RACE

M  
GENDER

SOCIAL SECURITY NUMBER

**JUDGMENT**

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

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

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE
<u>1</u>	<u>Procuring Person Under 18 for Prostitution</u>	<u>796.03</u>	<u>2<sup>nd</sup> F</u>

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

and having been convicted or found guilty of, or having entered a plea of nolo contendere or guilty, regardless of adjudication, to attempts or offenses relating to sexual battery (ch. 794), lewd and lascivious conduct (ch. 800), or murder (s. 782.04), aggravated battery (s. 784.05), burglary (s. 810.02), carjacking (s. 812.133), or home invasion robbery (s. 812.135), or any other offense specified in section 943.325, the defendant shall be required to submit blood specimens

and good cause being shown IT IS ORDERED THAT ADJUDICATION OF GUILTY BE WITHHELD

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

SENTENCE DEFERRED  The Court hereby defers imposition of sentence until \_\_\_\_\_

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

DO NE AND ORDERED: Open Court Palm Beach County, Florida this 30 day of June 2008  
Rebel Dade Powell

CIRCUIT CLERK

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

CASE NO. 2006 CF 009 54A

DIVISION W

STATE OF FLORIDA

vs.

Jeffrey Epstein.

ON July 2, 2008

FILED  
2008 JUL -2 PM 3:43

Psychiatric (Medical, etc.) Report dated \_\_\_\_\_

from \_\_\_\_\_

Presentence Investigation Report dated \_\_\_\_\_

from \_\_\_\_\_

Other Non-Prosecution Agreement

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

EXHIBIT  
**B**

JUL 03 2008

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

CASE NO. 06CF 009454 XV

STATE OF FLORIDA

DIVISION W

vs.

Jeffrey Epstein

ON 8/25/08

FILED  
2008 AUG 25 11:00 AM  
CLERK OF COURT  
PALM BEACH COUNTY  
FLORIDA

Psychiatric (Medical, etc.) Report dated \_\_\_\_\_  
from \_\_\_\_\_

Presentence Investigation Report dated SCANNED  
from AUG 30 2008

Other Addendum to the non-prosecution Agreement

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

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

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.

CASE NO.: 2006CF009454AXX  
DIVISION: "W"

2008-2-11-01  
FILED

AGREED ORDER SEALING DOCUMENT IN COURT FILE

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

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

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

  
DEBORAH DALE PUCILLO  
Circuit Court Judge

Copies forwarded to:

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

Lanna Belohlavek, Esq.  
Assistant State Attorney  
(interoffice)

AB JUL 03 2008

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

STATE OF FLORIDA )  
vs )  
JEFFREY EPSTEIN )  
Defendant. )

CASE NO. 06 CF9454AMB W  
08 9381CFAMB

2008 JUL 22 PM 3:12  
SUF COURT, EAST CO. FL  
P. 15000 OF COUNTY FL  
CIRCUIT CRIMINAL

FILED

PLEA CONFERENCE

PRESIDING: HONORABLE DEBORAH DALE PUCILLO

APPEARANCES:

ON BEHALF OF THE STATE:  
BARRY E. KRISCHER, ESQUIRE  
State Attorney  
401 North Dixie Highway  
West Palm Beach, Florida 33401  
By: LANNA BELOHLAVEK, ESQUIRE  
Assistant State Attorney

ON BEHALF OF THE DEFENDANT:  
ATTERBURY, GOLDBERGER & WEISS, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, Florida 33401  
By: JACK GOLDBERGER, ESQUIRE

ORIGINAL

June 30, 2008  
Palm Beach County Courthouse  
West Palm Beach, Florida 33401  
Beginning at 8:40 o'clock, a.m.

PHYLLIS A. DAMES, OF REPORTER

EXHIBIT  
C

1 on that, Your Honor?

2 THE COURT: It is going to be

3 recorded.

4 MR. GOLDBERGER: That's fine.

5 THE COURT: Defendant needs to  
6 approach as well.

7 (Whereupon, there was a conference at  
8 the bench.)

9 MR. GOLDBERGER: The reason why I  
10 asked to come sidebar, there is a  
11 nonprosecution agreement with the United  
12 States Attorney's office that triggers as a  
13 result of this plea agreement. In other  
14 words, they have signed off and said they  
15 will not prosecute Mr. Epstein in the  
16 Southern District of Florida for any  
17 offense upon his successful taking of this  
18 plea today. That is a confidential  
19 document that the parties have agreed to.  
20 Just in an abundance of caution, I wanted  
21 to tell the court.

22 THE COURT: I understand, that would  
23 also be invalidated should he violate his  
24 community control?

25 MR. GOLDBERGER: Absolutely. That

1 nonprosecution agreement --

2 MS. BELOHLAVEK: They spell all that

3 out.

4 THE COURT: Mr. Epstein needs to come  
5 closer.

6 Mr. Epstein, your attorney has  
7 told me that in addition to everything, we  
8 talked about another Inducement, shall we  
9 say, to your taking this plea is that the  
10 U.S. Attorney for the Southern District of  
11 the State of Florida, federal prosecutor,  
12 has agreed to a nonprosecution agreement  
13 with you, meaning that if you successfully  
14 complete probation and do everything you're  
15 supposed to, they have, have agreed not to  
16 prosecute you federally, did you understand  
17 that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And I would view that as  
20 a significant inducement in accepting this  
21 plea.

22 MS. BELOHLAVEK: They are actually in  
23 court here today, also.

24 THE COURT: Okay.

25 MR. GOLDBERGER: And the plea

1 agreement very carefully spelled out if  
2 there was a breach that would violate this  
3 agreement, so we are well aware of it.

4 THE COURT: Okay. I would request  
5 that a sealed copy of that -- Mr. Epstein  
6 has signed that document?

7 MR. GOLDBERGER: Yes, I would like to  
8 seal the copy.

9 THE COURT: I want a sealed copy of  
10 that filed in this case. That is the only  
11 other condition of the agreement that is  
12 influencing this defendant to make this  
13 decision?

14 MR. GOLDBERGER: Absolutely. I think  
15 that's the right idea.

16 (Return to open court.)

17 THE COURT: Mr. Epstein, is there  
18 anything else?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Because I don't take  
21 these pleas unless they are freely and  
22 voluntarily made.

23 THE DEFENDANT: I understand that.

24 THE COURT: I also don't want  
25 somebody or anybody coming back a year.

PHYLLIS A. DAMES, OFFICIAL COURT REPORTER



**OTIS** RECYCLED PAPER

TO REORDER CALL 954-846-9399

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

**CASE NO: 2006CF009454AXX,  
2008CF009381AXX**

**STATE,**

**vs.**

**EPSTEIN, JEFFREY E,**

**Defendant.**

---

**MOTION TO INTERVENE AND SUPPORTING MEMORANDUM OF LAW**

COMES NOW, Applicant, B.B. and requests this Court, pursuant to Florida Rule of Civil Procedure 1.230, for leave to intervene as a party in Mr. Epstein's criminal matter for the following reasons:

1. Applicant's intervention is in subordination to, and in recognition of, the propriety of the main proceeding.
2. Applicant stands to either gain or lose by the court's direct legal operation and effect of judgment in the pending matter.
3. Applicant is not injecting a new issue into the pending matter.
4. Applicant's motion to intervene is timely.

5. Defense counsel, Robert Critton, Jr. in the civil matter, does not object to Applicant's motion, but Plaintiff's counsel has not heard back from Defendant Epstein's criminal counsel, Jack Goldberger as to whether he opposes this motion.

#### MEMORANDUM OF LAW

Anyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention, but the intervention shall be in subordination to, and in recognition of, the propriety of the main proceeding, unless otherwise ordered by the court in its discretion.

Fla.R.Civ.P. 1.230. "A person seeking leave to intervene must claim an interest of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment." Litvak v. Scylla Properties, LLC, 946 So.2d 1165, 1172 (Fla. 5<sup>th</sup> DCA 2006). Additionally, "an intervenor may not inject a new issue into the case."

Environmental Confederation of Southwest Florida, Inc., v. IMC Phosphates, Inc., 857 So.2d 207, 211 (Fla.1<sup>st</sup> DCA 2003). "An intervention is thus only appropriate where the issue the intervenor raises are related to the case being litigated." Racing Properties, L.P., v. Baldwin, 885 So.2d 881, 883 (Fla. 3<sup>rd</sup> DCA 2004).

Once the trial court determines that the intervenor's interest is sufficient, it exercises its discretion to determine whether to permit intervention. Union Cent. Life Ins. Co. v. Carlisle, 593 So.2d 505, 507 (Fla. 1992). "In deciding this question the court should consider a number of factors, including the derivation of the interest, any pertinent contractual language, the size of the interest, the potential for conflicts or new issues, and any other relevant circumstance." Id. Finally, an intervention is generally considered timely if it is made before a final decree has been entered. See Technical Chemicals And Products, Inc., v. Porchester Holdings, Inc., 748 So.2d 1090, 1091 (Fla. 4<sup>th</sup> DCA 2000).

Applicant's proposed intervention is subordinate and in recognition of the propriety of the main proceeding. Additionally, Applicant will not inject any new issue into Mr. Epstein's criminal case. In fact, Applicant's intervention is for the limited purpose of joining already intervening parties "E.W." and "the Palm Beach Post" in their arguments regarding the sealed Federal non-prosecution agreement in Mr. Epstein's criminal file. Finally, Applicant's interest is of such a direct and immediate character that the Applicant stands to either gain or lose by the court's judgment in the pending matter. The Applicant currently has a civil complaint against Mr. Epstein regarding allegations similar to those in this pending criminal matter. The sealed document may contain discoverable information or may lead to the discovery of new relevant information. See Fla.R.Civ.P. 1.280(b)(1). Additionally, the document may contain valuable impeachment information that the Applicant would intend to use if the Applicant's civil case proceeded to trial.

**WHEREFORE**, Applicant, B.B., respectfully requests the Court grant B.B.'s motion to intervene in the pending criminal matter.

**CERTIFICATE OF SERVICE**

HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U. S. Mail, postage prepaid, this 11 day of JUNE, 2009 to Jack A. Goldberger, Esq., 250 Australian Avenue, Suite 1400, West Palm Beach, FL 334101; Bruce E. Reinhart, Esq., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401; Robert D. Critton, Jr., Michael J. Pike, 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401.

LEOPOLD-KUVIN, P.A.  
2925 PGA Boulevard  
Suite 200  
Palm Beach, Gardens, FL 33410

By:   
SPENCER T. KUVIN, Esq.  
Florida Bar No.: 089737



RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

STATE OF FLORIDA

vs.

Case Nos.: 2006-CF9454-AXX &  
2008-9381CF-AXX

JEFFREY EPSTEIN

---

**PALM BEACH POST'S MOTION TO INTERVENE  
AND PETITION FOR ACCESS**

Palm Beach Newspapers, Inc., d/b/a The Palm Beach Post (the "Post") moves to intervene in this action for the limited purpose of seeking access to documents filed under seal. The documents relate directly to the Defendant's guilty plea and sentence. Thus, the sealed documents go to the heart of the disposition of this case. But in requesting that Judge Pucillo seal these documents, the parties failed to comply with Florida's strict procedural and substantive requirements for sealing judicial records. In addition, continued sealing of these documents is pointless, because these documents have been discussed repeatedly in open court records. For all of these reasons, the documents must be unsealed. As grounds for this Motion, the Post states:

1. The Post is a daily newspaper that has covered this matter and related proceedings. In an effort to inform its readers concerning these matters, the Post relies upon (among other things) law enforcement records and judicial records.

2. As a member of the news media, the Post has a right to intervene in criminal proceedings for the limited purpose of seeking access to proceedings and records. See Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113, 118 (Fla. 1988) (news media have standing to challenge any closure order); Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 7 (Fla. 1982) (news media must be given an opportunity to be heard on question of closure).

3. The particular documents under seal in this case are a non-prosecution agreement that was docketed on July 2, 2008, and an addendum docketed on August 25, 2008. Together, these documents apparently restrict any federal prosecution of the Defendant for offenses related to the conduct to which he pleaded guilty in this case. Judge Pucillo accepted the agreement for filing during a bench conference on June 30, 2008. The agreement, Judge Pucillo found, was "a significant inducement in accepting this plea." Such agreements and related documents typically are public record. See Oregonian Publishing Co. v. United States District Court, 920 F.2d 1462, 1465 (9th Cir. 1990) ("plea agreements have typically been open to the public"); United States v. Koolstra, 796 F.3d 1390, 1390-91 (11th Cir. 1986) (documents relating to defendant's change of plea and sentencing could be sealed only upon finding of a compelling interest that justified denial of public access).

4. The Florida Constitution provides that judicial branch records generally must be open for public inspection. See Art. I, § 24(a), Fla. Const. Closure of such records is allowed only under narrow circumstances, such as to "prevent a serious and imminent threat to the fair, impartial and orderly administration of justice," or to protect a compelling governmental interest. See Fla. R. Jud. Admin. 2.420(c)(9)(A). Additionally, closure must be effective and no broader than necessary to accomplish the desired purpose, and is lawful only if no less restrictive measures will accomplish that purpose. See Fla. R. Jud. Admin. 2.420(c)(9)(B) & (C); Lewis, 426 So. 2d at 3.

5. In this case, the non-prosecution agreement and, later, the addendum were sealed without any of the requisite findings. Rather, it appears from the record, the documents were sealed merely because the Defendant's counsel represented to Judge Pucillo that the non-prosecution agreement "is a confidential document." See Plea Conference Transcript page 38

(June 30, 2008): Such a representation falls well short of demonstrating a compelling interest, a genuine necessity, narrow tailoring, and that no less restrictive measures will suffice.

Consequently, the sealing was improper and ought to be set aside.

6. In addition, at this time good cause exists for unsealing the documents because of their public significance. Since the Defendant pleaded guilty to soliciting a minor for prostitution, he has been named in at least 12 civil lawsuits that – like the charges in this case – allege he brought and paid teenage girls to come his home for sex and/or “massages.”<sup>1</sup> At least 11 cases are pending. In another lawsuit, one of the Defendant’s accusers has alleged that federal prosecutors failed to consult with her regarding the disposition of possible charges against the Defendant.<sup>2</sup> State prosecutors also have been criticized: The Palm Beach Police Chief has faulted the State Attorney’s handling of these cases as “highly unusual” and called for the State Attorney’s disqualification. Consequently, this case – and particularly the Defendant’s agreements with prosecutors – are of considerable public interest and concern.

7. The Defendant’s non-prosecution agreement with federal prosecutors also was important to Judge Pucillo. As she noted in the June 2008 plea conference, “I would view [the non-prosecution agreement] as a significant inducement in accepting this plea.” See Plea Conference Transcript page 39. Florida law recognizes a strong public right of access to documents a court considers in connection with sentencing. See Sarasota Herald Tribune, Div.

<sup>1</sup> See, e.g., Doe v. Epstein, Case No. 08-80069 (S.D. Fla. 2008); Doe No. 2 v. Epstein, Case No. 08-80119 (S.D. Fla. 2008); Doe No. 3 v. Epstein, Case No. 08-80232 (S.D. Fla. 2008); Doe No. 4 v. Epstein, Case No. 08-80380 (S.D. Fla. 2008); Doe No. 5 v. Epstein, Case No. 08-80381 (S.D. Fla. 2008); C.M.A. v. Epstein, Case No. 08-80811 (S.D. Fla. 2008); Doe v. Epstein, Case No. 08-80893 (S.D. Fla. 2008); Doe No. 7 v. Epstein, Case No. 08-80993 (S.D. Fla. 2008); Doe No. 6 v. Epstein, Case No. 08-80994 (S.D. Fla. 2008); Doe II v. Epstein, Case No. 09-80469 (S.D. Fla. 2009); Doe No. 101 v. Epstein, Case No. 09-80591 (S.D. Fla. 2009); Doe No. 102 v. Epstein, Case No. 09-80656 (S.D. Fla. 2009); Doe No. 8 v. Epstein, Case No. 09-80802 (S.D. Fla. 2009).

<sup>2</sup> See In re: Jane Doe, Case No. 08-80736 (S.D. Fla. 2008).

of the New York Times Co. v. Holtzendorf, 507 So. 2d 667, 668 (Fla. 2d DCA 1987) ("While a judge may impose whatever legal sentence he chooses, if such sentence is based on a tangible proceeding or document, it is within the public domain unless otherwise privileged."). In this case, no interest justifies continued sealing of these "significant" documents that Judge Pucillo considered in accepting the plea and sentencing the Defendant. The lack of any such compelling interest – as well as the parties' failure to comply with the standards for sealing documents initially – provide good cause for unsealing the documents at this time.

8. Finally, continued closure of these documents is pointless, because many portions of the sealed documents already have been made public. For example, court papers quoting excerpts of the agreement have been made public in related federal proceedings.<sup>3</sup> As the Florida Supreme Court has noted, "there would be little justification for closing a pretrial hearing in order to prevent only the disclosure of details which had already been publicized." Lewis, 426 So. 2d at 8. Similarly, in this case, to the extent that information already has been made public, continued closure is pointless and, therefore, unconstitutional.

9. The Post has no objection to the redaction of victims' names (if any) that appear in the sealed documents. In addition, insofar as the Defendant or State Attorney seek continued closure, the Post requests that the Court inspect the documents in camera in order to assess whether, in fact, continued closure is proper.

---

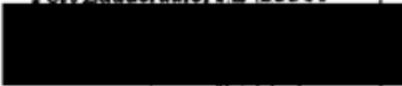
<sup>3</sup> See, e.g., "Defendants Jeffrey Epstein and ██████████'s Motion for Stay," C.M.A. v. Epstein, Case No. 08-80811 (S.D. Fla. July 25, 2008) (filed publicly Jan. 7, 2009).

WHEREFORE, the Post respectfully requests that this Court unseal the non-prosecution agreement and addendum and grant the Post such other relief as the Court deems proper.

Respectfully submitted,

THOMAS, LOCICERO & BRALOW PL

*Racquel J. Jagers* Fla Bar # 0144029  
Deanna K. Shullman  
Florida Bar No.: 0514462  
James B. Lake  
Florida Bar No.: 0023477  
101 N.E. Third Avenue, Suite 1500  
Fort Lauderdale, FL 33301



Attorneys for The Palm Beach Post

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and U.S. Mail to: R. Alexander Acosta, United States Attorney's Office - Southern District, 500 S. Australian Ave., Ste. 400, West Palm Beach, FL 33401 (fax: 561-820-8777); Michael McAuliffe, Esq., and Judith Stevenson Arco, Esq., State Attorney's Office - West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401 (fax: 561-355-7351); Jack Alan Goldberger, Esq., Atterbury Goldberger, et al., 250 S. Australian Ave., Ste. 1400, West Palm Beach, FL 33401 (fax: 561-835-8691); and Bradley J. Edwards, Esq. and William J. Berger, Esq., Rothstein Rosenfeldt Adler, 401 East Las Olas Blvd., Suite 1650, Fort Lauderdale, FL 33394 (fax: 954-527-8663) on this 1st day of June, 2009.

*Racquel J. Jagers*  
Attorney



RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

CASE NO. 2008CF009381A  
DIVISION W

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.

---

**MOTION TO MAKE COURT RECORDS CONFIDENTIAL**

Comes now the Defendant, JEFFREY EPSTEIN, by and through his undersigned attorney's, pursuant to Florida Rule of Judicial Administration 2.420 and the Administrative Orders of this Court, specifically AO 2.303 and moves this Court to treat as confidential the following records.

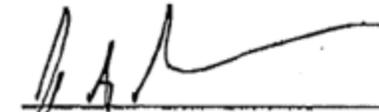
- A. A document referred to as "Non-Prosecution Agreement" filed under seal in the court file on July 2, 2008.
  - B. A document referred to as "The Addendum to the Non-Prosecution Agreement" filed under seal in the court file on August 25, 2008.
1. The above referenced documents were Ordered Sealed at a hearing held before the Honorable Judge Deborah Dale Pucillo on June 30, 2008.
  2. A Motion to Vacate Order Sealing Records and Unseal Records was filed by Non-Party EW on or about May 15, 2009.
  3. A Motion to Intervene and Petition for Access was filed by Non-party Palm Beach Post on June 1, 2009.
  4. This Court granted Non-Party E.W. and Palm Beach Post Motion to Intervene on June 10, 2009 but took no immediate action on E. W.'s Motion to Vacate Order Sealing Records and Unsealing Records or on Palm Beach Posts Petition For Access, pending a further hearing.

5.. The documents should remain confidential for the following reasons:

- a. To prevent a serious imminent threat to the fair, impartial, and orderly administration of justice.
- b. To protect a compelling government interest.
- c. To avoid substantial injury to innocent third parties.
- d. To avoid substantial injury to a party by disclosure of matters protected by a common law and privacy right, not generally inherent in these specific type of proceedings, sought to be closed.

WHEREFORE, Defendant moves this Honorable Court to enter an Order keeping the above referenced records confidential, and maintaining them under seal.

I HEREBY CERTIFY that this motion is made in good faith and supported by a sound and factual legal basis.

  
\_\_\_\_\_  
JACK A. GOLDBERGER, ESQ.

WITNESS my hand and seal in the County and State last aforesaid this 11 day of June, 2009.



  
\_\_\_\_\_  
Notary Public State of Florida  
My Commission Expires

CERTIFICATE OF SERVICE

*By hand delivery*

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via  U.S. Mail;  Facsimile;  Overnight Delivery to R. Alexander Acosta, United States Attorney's Office-Southern District, 500 S. Australian Ave., Suite 400, West Palm Beach, FL 33401, Judith Stevenson Aroo, Esq., State Attorney's Office-West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401, William J Berger, Esq., ROTHSTEIN ROSENFELDT ADLER, 401 East Las Olas Blvd., Suite 1650, Fort Lauderdale, FL 33394; Bradley J. Edwards, Esq., ROTHSTEIN ROSENFELDT ADLER, 401 East Las Olas Blvd., Suite 1650, Fort Lauderdale, FL 33394; Deanna K. Shullman, 400 North Ashley Drive, Suite 1100, P.O.Box 2602 (33601) Tampa, FL 33602, Robert D. Critton, BURMAN, CRITTON, LUTTIER, & COLEMAN, 515 N. Flagler Dr. Suite 400, West Palm Beach, Florida 33401. this 11 day of June, 2009.

*and Special Counsel*

BURMAN, CRITTON, LUTTIER & COLEMAN  
515 N. Flagler Dr. Suite 400  
West Palm Beach, Florida 33401  
[Redacted]

ATTERBURY, GOLDBERGER &  
WEISS, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, Florida 33401  
[Redacted]

*[Signature]*  
ROBERT D. CRITTON, ESQ.  
Florida Bar No. 224162

*[Signature]*  
JACK A. GOLDBERGER, ESQ.  
Florida Bar No. 262013

*and*  
←

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

CASE NO. 2008CF009381A  
DIVISION W

STATE OF FLORIDA

v.

JEFFREY EPSTEIN,

Defendant.  
\_\_\_\_\_ /

**EPSTEIN'S MOTION TO STAY DISCLOSURE OF THE NON-  
PROSECUTION AGREEMENT AND ADDENDUM PENDING REVIEW**

Defendant, JEFFREY EPSTEIN ("EPSTEIN"), by and through his undersigned counsel and pursuant to Rule 9.310, Florida Rules of Appellate Procedure, moves to stay disclosure of the Non-Prosecution Agreement and Addendum (collectively, the "NPA") pending review, and states:

1. In the event the Court grants Nonparty E.W.'s Motion to Vacate Order Sealing Records and Unseal Records, grants Palm Beach Post's Motion to Intervene and Petition for Access and/or denies EPSTEIN's Motion to Make Court Records Confidential, EPSTEIN moves to stay the disclosure of the NPA pending review by the Fourth District Court of Appeals.

2. Rule 9.310(a), Florida Rules of Appellate Procedure, provides in pertinent part, "...a party seeking to stay a final or non-final order pending review shall file a motion in the lower tribunal, which shall have continuing jurisdiction, in its discretion, to grant, modify or deny such relief."

3. A stay pending review is warranted under the circumstances because of the irreparable harm that would be caused by disclosure of the NPA including, but not limited to, substantial injury to a party by disclosing matters protected by common law and privacy rights, substantial injury to a compelling government interest, substantial injury to innocent third parties and a serious imminent threat to the fair, impartial and orderly administration of justice as set forth in the hearing record date June 25, 2009.

4. In Mariner Health Care of Nashville, Inc. v. Baker, 739 So. 2d 608, 609 (Fla. 1st DCA 1999), defendant Mariner filed a petition for writ of certiorari after the trial court compelled it to produce certain incident reports. Mariner also moved for a stay pending review pursuant to Fla. R. App. Pro. 9.310. The trial court advised the parties that Mariner would be required to submit the incident reports to the court under seal as a prerequisite to a stay. Mariner refused to produce the documents under seal and the trial court denied the motion for stay and imposed daily fines until the documents were produced. Id. The First District Court of Appeals affirmed the trial court's order and noted

Mariner has failed to explain how the production of the reports under seal would result in any prejudice. To the contrary, the records will be protected from disclosure during the entire course of the certiorari proceeding before this court. No harm can be done if this court ultimately determines that the reports are protected by the work product privilege.

Id. at 610.

5. In the instant case the NPA is already filed under seal. Should the Court grant Nonparty E.W.'s Motion to Vacate Order Sealing Records and Unseal Records, grant Palm Beach Post's Motion to Intervene and Petition for Access and/or deny

EPSTEIN's Motion to Make Court Records Confidential, EPSTEIN requests the Court exercise its discretion under Fla. R. App. Pro. 9.310(a) and enter a stay pending review by the 4<sup>th</sup> DCA.

6. No harm will be done if the NPA remains under seal pending appellate review. To the contrary, EPSTEIN will suffer irreparable harm if a stay is not entered and the NPA is disclosed to the public.

WHEREFORE, Defendant, JEFFREY EPSTEIN, respectfully requests that if the Court grants Nonparty E.W.'s Motion to Vacate Order Sealing Records and Unseal Records, grants Palm Beach Post's Motion to Intervene and Petition for Access and/or denies EPSTEIN's Motion to Make Court Records Confidential, the Court enter a stay pending review and grant any additional relief the Court deems just and proper.

**Certificate of Service**

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery to [REDACTED], United States Attorney's Office – Southern District, 500 S. Australian Avenue, Suite 400, West Palm Beach, FL 33401, JUDITH STEVENSON AREO, ESQ., State Attorney's Office – West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401, WILLIAM J. BERGER, ESQ., and BRADLEY J. EDWARDS, Rothstein Rosenfeldt Adler, 401 East Las Olas Boulevard, Suite 1650, Fort Lauderdale, FL 33394, JACK A. GOLDBERGER, ESQ., Atterbury, Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401, SPENCER T. KUVIN, ESQ., Leopold-Kuvin, P.A., 2925 PGA Blvd., Suite 200, Palm Beach Gardens, FL 33410, and DEANNA K. SHULLMAN,

400 North Ashley Drive, Suite 1100, P.O. Box 2602 (33601) Tampa, FL 33602, this 25th  
day of June, 2009.

**BURMAN, CRITTON, LUTTIER &  
COLEMAN, LLP**

515 N. Flagler Drive, Suite 400  
West Palm Beach, FL 33401

By: \_\_\_\_\_

Robert D. Critton, Jr.

Florida Bar #224162

Michael J. Pike

Florida Bar #617296

*Counsel for Defendant Jeffrey Epstein)*

and

Jack Alan Goldberger, Esq.

Atterbury Goldberger & Weiss, P.A.

250 Australian Avenue South

Suite 1400

West Palm Beach, FL 33401-5012

Fax: 561-835-8691

*Counsel for Defendant Jeffrey Epstein*



RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

CASE NO: 2006CF009454AXX,  
2008CF009381AXX

STATE,

vs.

EPSTEIN, JEFFREY E.

Defendant.

---

**INTERVENER'S RESPONSE TO MOTION TO STAY  
AND SUPPORTING MEMORANDUM OF LAW**

COMES NOW, Intervener, B.B. and files this Response to Defendant Jeffrey Epstein's Motion to Stay, and states:

In their motion, Defendant asks the Court to stay its ruling on the production of the NPA agreement pending review by the Fourth DCA. Since this NPA was never properly sealed in the first place, a Stay is improper because this document is a public record until such time as it has been properly sealed. Furthermore, as Defendant EPSTEIN has failed to demonstrate that he is likely to succeed on the merits of his appeal or describe how he will be harmed by this disclosure, Intervener B.B. respectfully requests the Court deny their Motion.

Pursuant to Florida Rule of Appellate Procedure 9.310(a), a trial court has the discretion to enter a stay pending interlocutory review of a non-final order. The burden to satisfy the

requirements for a stay rests with the party requesting the stay. A trial court is not obligated, or even encouraged, to enter such a stay as the Appellate Rules specifically provide, "In the absence of a stay, during the pendency of a review of a non-final order, **the lower tribunal may proceed with all matters**, including trial or final hearing; provided that the lower tribunal may not render a final order disposing of the cause pending such review." Fla. R. App. P. 9.130(f) (emphasis added).

Defendants ask the Court to stay disclosure of a public document which was never properly sealed. Factors to be considered by a court when deciding whether to enter a stay "include the moving party's likelihood of success on the merits, and the likelihood of harm should a stay not be granted." Perez v. Perez, 769 So.2d 389, 391 n.4 (Fla. 3d DCA 1999). Defendants fail to adequately address these factors in their motion. In fact, Defendant completely ignores the likelihood of success analysis. Likely this is because there is no likelihood that the Fourth District would reverse this court's ruling since the proper procedures for sealing the NPA were never followed.

As to likelihood of harm, the only reference Defendant B.B. makes to this issue is in paragraph 3 of his motion. Here, Defendant merely makes a broad assertion that there will be "irreparable harm caused by the disclosure of the NPA." There is no explanation of who will be harmed or what harm will be caused. How can a public document which redacts the names of the minor victims cause harm? This necessary question is never answered. Defendant's broad and vague assertion is insufficient to grant a stay.

Finally, since there has been no showing by Defendant EPSTEIN that the proper procedure for sealing court documents were ever followed, the NPA is a public record.

Therefore, Plaintiff respectfully requests the Court DENY Defendants' Motion to Stay the Proceedings.

**CERTIFICATE OF SERVICE**

HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U. S. Mail, postage prepaid, this 26 day of June, 2009 to Jack A. Goldberger, Esq., 250 Australian Avenue, Suite 1400, West Palm Beach, FL 334101; Bruce E. Reinhart, Esq., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401; Robert D. Critton, Jr., Michael J. Pike, 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401.

LEOPOLD-KUVIN, P.A.  
2925 PGA Boulevard  
Suite 200  
Palm Beach Gardens, FL 33410

By: \_\_\_\_\_  
SPENCER T. KUVIN, Esq.  
Florida Bar No.: 089737

Westlaw

769 So.2d 389  
 769 So.2d 389, 24 Fla. L. Weekly D2439  
 (Cite as: 769 So.2d 389)

Page 1

P

District Court of Appeal of Florida,  
 Third District.  
 Deborah PEREZ, Appellant,  
 v.  
 Jorge M. PEREZ, Appellee.  
 No. 99-2182.

Oct. 27, 1999.  
 Rehearing Denied Dec. 7, 1999.

Following divorce, parties agreed to modification of marital settlement agreement which specifically provided that mother could permanently relocate children to Utah. Father petitioned for modification of custody. The Circuit Court, Dade County, Eugene J. Fierro, J., split custody of children, and mother appealed. Parties and guardian ad litem filed various motions. Mother moved to prohibit further involvement in appellate proceedings by guardian ad litem and counsel appearing on behalf of guardian. The District Court of Appeal, Gersten, J., held that: (1) guardian did not have authority to submit brief or motions at appellate level of child custody proceeding, and (2) there was no authority permitting guardian ad litem to retain counsel on behalf of herself in appeal.

Motion granted.

Sorondo, J., filed concurring opinion

West Headnotes

**[1] Appeal and Error 30 ↪477**

30 Appeal and Error  
 30IX Supersedeas or Stay of Proceedings  
 30k476 Upon Allowance by Court or Judge  
 30k477 k. Authority of Court or Judge.  
 Most Cited Cases  
 District Court of Appeal has authority to issue stay for purpose of preserving status quo during appellate proceeding. West's F.S.A. R.App.P.Rule

9.310(f).

**[2] Appeal and Error 30 ↪479(1)**

30 Appeal and Error  
 30IX Supersedeas or Stay of Proceedings  
 30k476 Upon Allowance by Court or Judge  
 30k479 Grounds for Allowance  
 30k479(1) k. In General. Most Cited

Cases

Factors which are considered by District Court of Appeal in deciding whether to grant stay include moving party's likelihood of success on merits, and likelihood of harm should stay not be granted. West's F.S.A. R.App.P.Rule 9.310(f).

**[3] Child Custody 76D ↪905**

76D Child Custody  
 76DXIII Appeal or Judicial Review  
 76Dk905 k. Transfer of Cause and Proceedings in General. Most Cited Cases  
 (Formerly 134k303(3))

Father's failure to return children to mother after summer vacation, as required under parties' post-divorce visitation arrangements, and father's attempts to manipulate children's custody preference were sufficient to establish that mother had likelihood of success on merits of her appeal of order modifying custody, warranting issuance of stay, for purpose of preserving status quo during appellate proceeding. West's F.S.A. R.App.P.Rule 9.310(f).

**[4] Child Custody 76D ↪903**

76D Child Custody  
 76DXIII Appeal or Judicial Review  
 76Dk903 k. Right of Review and Parties.  
 Most Cited Cases  
 (Formerly 211k19.3(6))  
 Guardian ad litem did not have authority to submit brief or motions at appellate level of child custody proceeding. West's F.S.A. § 61.401; West's F.S.A. R.App.P.Rule 9.020.

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**[5] Infants 211 ↪85**

211 Infants  
211VII Actions  
211k76 Guardian Ad Litem or Next Friend  
211k85 k. Duties and Liabilities. Most Cited Cases  
(Formerly 211k19.2(2))  
Universally recognized function of guardian ad litem in custody dispute is to protect best interests of children.

**[6] Infants 211 ↪77**

211 Infants  
211VII Actions  
211k76 Guardian Ad Litem or Next Friend  
211k77 k. In General. Most Cited Cases  
(Formerly 211k19.3(1))  
Guardians ad litem serve important role, under limited circumstances, by acting as representatives of children and promoting society's interest in protecting children from traumas commonly associated with divorce and custody disputes.

**[7] Infants 211 ↪85**

211 Infants  
211VII Actions  
211k76 Guardian Ad Litem or Next Friend  
211k85 k. Duties and Liabilities. Most Cited Cases  
(Formerly 211k19.3(1))  
Duties and responsibilities of guardian ad litem are not coextensive with those of attorney. West's F.S.A. § 61.403.

**[8] Child Custody 76D ↪900**

76D Child Custody  
76DXIII Appeal or Judicial Review  
76Dk900 k. In General. Most Cited Cases  
(Formerly 211k19.3(6))

**Child Custody 76D ↪903**

76D Child Custody

76DXIII Appeal or Judicial Review  
76Dk903 k. Right of Review and Parties. Most Cited Cases  
(Formerly 211k19.3(6))  
Appellate court is not fact-finding court and there is no proper role for guardian ad litem at appellate level. West's F.S.A. § 61.403.

**[9] Infants 211 ↪85**

211 Infants  
211VII Actions  
211k76 Guardian Ad Litem or Next Friend  
211k85 k. Duties and Liabilities. Most Cited Cases  
(Formerly 211k19.2(2))  
Guardians ad litem are required to act in the best interests of children even if this conflicts with the children's wishes, and must serve as independent fact investigators. West's F.S.A. § 61.403.

**[10] Child Custody 76D ↪903**

76D Child Custody  
76DXIII Appeal or Judicial Review  
76Dk903 k. Right of Review and Parties. Most Cited Cases  
(Formerly 211k19.3(6))  
Filing of motions and brief by guardian ad litem in appellate custody proceedings conflicts with guardian's proper function of serving as independent fact investigator, and violates statutory prohibition against guardians acting as advocates. West's F.S.A. § 61.403.

**[11] Child Custody 76D ↪409**

76D Child Custody  
76DVIII Proceedings  
76DVIII(A) In General  
76Dk409 k. Parties; Intervention. Most Cited Cases  
(Formerly 211k19.3(3))  
Minor children in custody proceeding are not considered as "necessary parties" to action.

**[12] Child Custody 76D ↪903**

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76D Child Custody  
 76DXIII Appeal or Judicial Review  
 76Dk903 k. Right of Review and Parties.  
 Most Cited Cases  
 (Formerly 211k19.3(6))

There is no authority permitting guardian ad litem to retain counsel on behalf of herself in appeal, where guardian is not party to proceedings, and where guardian is purportedly appearing on behalf of children who are also not parties in appellate proceedings.

\*390 Marsha B. Elser, Miami; Cynthia L. Greene, Miami, for appellant.

Podhurst, Orseck, Josefsberg, Eaton, Meadow, Olin, & Perwin, and Joel S. Perwin, Miami; Baranco, Kircher, Vogelsang & Boldt, and Kimberly L. Boldt, Miami, for appellee.

Before GERSTEN, SHEVIN, and SORONDO, JJ.

*ON APPELLANT'S RENEWED MOTION TO PROHIBIT FURTHER INVOLVEMENT IN THESE APPELLATE PROCEEDINGS BY THE GUARDIAN AD LITEM AND/OR COUNSEL APPEARING ON BEHALF OF THE GUARDIAN AD LITEM*

GERSTEN, Judge.

Appellant, Deborah M. Perez ("the Former Wife"), moves this Court to prohibit further involvement in these appellate proceedings by the Guardian ad Litem ("Guardian") and counsel appearing on behalf of the Guardian. We grant the Former Wife's motion and write further to discuss our serious concerns regarding the proceedings in this case, and to clarify that there is no statutory basis for a Guardian to file motions and a brief in a child custody appeal.<sup>FN1</sup>

FN1. Initially, we denied the Former Wife's motion to prohibit further involvement by the Guardian ad Litem. However, we cautioned in our ruling that the denial

was "without prejudice to renew if necessary." At this stage of the proceedings, and during a flurry of emergency motions filed by the appellee, the Guardian had filed only two documents; one entitled "Guardian ad Litem's Emergency Motion for Rehearing of Stay" and one entitled "Guardian ad Litem's Emergency Motion to Relinquish Jurisdiction." Both were denied. Thereafter, the Guardian advised counsel for the Former Wife that a brief would be filed with this Court. The Former Wife then renewed her motion correctly observing that the Guardian intended to continue her wholly unauthorized and improper conduct.

**Background Facts**

The Former Wife and appellee Jorge M. Perez, ("the Former Husband") divorced in 1995. The Former Wife became primary residential parent of the parties' three minor children. In November of 1996, the parties agreed to a modification of the marital settlement agreement which specifically provided that the Former Wife could permanently relocate the children to the State of Utah in June of 1998.

In accordance with the 1996 agreement, the Former Wife purchased property in Utah, sold the home where she and the children were living in Miami, enrolled the children in a Utah school, and notified the Former Husband that she and the children would be relocating to Utah on June 18, 1998. However, two weeks prior to the scheduled and agreed upon departure date, the Former Husband filed a petition for modification of custody and attempted on an emergency basis to enjoin the Former Wife from relocating the children. The trial court denied the emergency motion determining the parties had agreed to the relocation, and the Former Wife and children moved to Utah.

Thereafter, pursuant to the parties' visitation agree-

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Page 4

ment, the children spent the \*391 summer of 1999 visiting with the Former Husband. The children having been enrolled in school in Utah, were to be returned to the Former Wife on August 21, 1999. During this agreed summer visitation, the Former Husband's petition for modification proceeded to trial. On July 30, 1999, the trial court entered an order modifying custody which is the subject of the main appeal.

The order split custody of the children, awarding custody of the two sons to the Former Husband, and custody of the parties' daughter to remain with the Former Wife.<sup>FN2</sup> The trial court's basis for splitting custody was the expressed preference of the two sons to live in Miami.

FN2. We note that the Former Husband's petition did not seek an award of split custody.

In its order, the court noted that the Guardian, Jacqueline Valdespino, testified there was a substantial change in circumstances in accord with the Former Husband's position. However, the court explained that it did not base its decision solely on the Guardian's testimony and report, because "part of her testimony at trial, as well as part of her conclusions in the Guardian Ad Litem's report ... are based partly on evidence which is clearly hearsay...."

On August 9, 1999, the Former Wife filed a Motion for Rehearing and Motion For Stay Pending Appeal which was denied by the trial court on August 20, 1999.<sup>FN3</sup> On August 23, 1999, the Former Wife filed her notice of appeal, and the next day filed an emergency motion seeking a stay of the trial court order, pending review in this Court.

FN3. The children had been enrolled in school in Utah for over a year, and the agreement provided that they were to be returned to the Former Wife on August 21st. In spite of the fact that the trial court's custody modification order had been suspended by the filing of the Former

Wife's Motion for Rehearing, the Former Husband placed the children in school in Miami on August 18th. The children were not returned to the Former Wife, although the primary residence of the children remained with the Former Wife at the time the Former Husband enrolled them in school.

#### Appellate Proceedings: A Barrage of Motions

[1][2][3] On August 24, 1999, the Former Wife filed an Emergency Motion for Stay Pending Review and a Motion to Expedite Appeal. The Former Wife's motion for stay alleged a likelihood of success on the merits, and that the best interests of the children required maintaining the status quo. Pursuant to her agreement with the Former Husband, the Former Wife requested that the children resume school in Utah pending a final decision on appeal. This Court granted the Former Wife's motions ordering a stay pending appeal, and that the appeal be expedited.<sup>FN4</sup>

FN4. This Court has authority to issue a stay under Rule 9.310(f), Florida Rules of Appellate Procedure, for the purpose of preserving the status quo during an appellate proceeding. See *Hirsch v. Hirsch*, 309 So.2d 47 (Fla. 3d DCA 1975). Once a stay is issued, the stay remains in effect until the appellate court mandate is issued. Rule 9.310(e), Fla. R.App. P. Factors which are considered by this Court in deciding whether to grant a stay include the moving party's likelihood of success on the merits, and the likelihood of harm should a stay not be granted. See *State ex rel. Price v. McCord*, 380 So.2d 1037 (Fla.1980).

During the course of the trial court proceedings, the children had been spending the summer with the Former Husband pursuant to the parties' visitation arrangements. The Former Husband did

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not return the children to the Former Wife, *see supra* note 3, and the Former Wife's motions contain facts and arguments indicating the Former Husband used this summer time as a means to manipulate the children's custody preference.

These facts and others were sufficient to establish the Former Wife had a likelihood of success on the merits. Coupled with our additional concerns regarding the children's schooling and their best interests, greater harm could result if the status quo were not preserved. *See Offerman v. Offerman*, 643 So.2d 1184 (Fla. 5th DCA 1994) (granting motion to stay temporary custody order). The facts raised by the Former Wife in support of her motion for a stay are most troubling, and we emphasize that this Court will not tolerate the improper use of visitation to manipulate a child's custody preference.

\*392 This Court's order granting the stay resulted in a flood of motions, including an "Emergency Motion For Rehearing of Stay" filed by the Guardian advocating the Former Husband's position, and a "Notice of Appearance filed by an attorney on behalf the Guardian".<sup>FN5</sup> Not surprisingly, the Former Husband also filed an emergency motion for review of the order granting the stay.<sup>FN6</sup> On August 26, 1999, this Court denied both the Former Husband's and the Guardian's motions.

FN5. The Notice of Appearance filed by the attorney stated she appeared "on behalf of the Guardian." A Notice of Appearance was also filed by the Guardian "on behalf of the minor children as Guardian Ad Litem."

FN6. The Former Husband's motion has the rather lengthy title of "Emergency Motion For Rehearing and For En Banc Re-

view of the Court's Ex Parte Order Granting the Wife's Motion to Stay Execution of a Child Custody Order, Without Waiting for the Husband's Response to That Motion." It incorrectly states that this Court's ruling constitutes an "ex parte judicial determination ... [which] is simply and flatly a violation of due process." There is no authority for an "en banc review" of an order issued by an appellate panel granting a stay pending review. More importantly, this Court has the inherent authority in its discretion to enter a ruling on a motion at any time, with or without a responsive pleading. In any event, the Former Husband's Emergency Motion was thoroughly considered at the time it was filed, and was denied by this Court.

In accordance with this Court's mandate, the parties' two sons were sent to Utah on August 27, 1999. Three days later, on August 30th, the oldest son traveled to Miami where he was met at the airport by the Former Husband. This prompted the Guardian and the Former Husband to once again attempt to evade the stay order.

The Former Husband first filed an emergency motion in the trial court where the trial judge held an emergency hearing by telephone. The Former Husband told the trial court that the Guardian had "advised" him not to return the child to the Former Wife in Utah "before [the child sees] a professional counselor who can address his present state of mind." The trial court denied the motion finding that this Court had "effectively taken jurisdiction" over the matter, and ordered the child be returned to Utah to "comply with the law that is now the law of this case; i.e. the stay of these proceedings."

Instead of returning the child, however, both the Guardian and the Former Husband then decided to file motions again in this Court. The Guardian's emergency motion asked this Court to "relinquish jurisdiction" to the trial court to consider testimony as to possible emotional damage to the parties' eld-

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est son. The Former Husband filed a similar motion entitled "Father/Appellee's Response in Support of Guardian Ad Litem's Emergency Motion to Relinquish Jurisdiction." Both the Former Husband's and the Guardian's motions were denied. Our denial of these motions was based upon what should be an obvious theorem-that parents and their minor children must obey court orders.

We are extremely concerned over this type of motion practice and caution counsel that "appellate motion practice is not a game of ping-pong in which the last lawyer to serve wins." See *Sarasota County v. Ex*, 645 So.2d 7 (Fla. 2d DCA 1994). To an even greater extent, we are extremely concerned with the impact of such behavior on children. Children should not be "played" as if in a game of ping-pong where the parent with the greater resources to serve the greatest number of motions wins.

Apparently, the Former Wife was also disturbed by the Guardian's involvement in the appellate proceedings, and moved to prohibit further involvement by the Guardian when she filed her response to the Guardian's second emergency motion on September 1, 1999. Although we denied the motion to prohibit at this time, see *infra* note 1, the denial was "without prejudice to renew if necessary." When the Guardian notified counsel for the Former \*393 Wife of her intent to file an appellate brief with this Court, the Former Wife renewed her motion. For the reasons that follow, we grant the motion and prohibit further involvement of the Guardian in these appellate proceedings.

#### The Role of a Guardian Ad Litem In Child Custody Appellate Proceedings

[4][5][6] The universally recognized function of a guardian ad litem in a custody dispute is to protect the best interests of children. Litigation involving custody issues can be particularly acrimonious and, unfortunately, children are particularly vulnerable to the harms commonly associated with hostility and conflict between parents. Guardians ad litem

serve an important role, under limited circumstances, by acting as representatives of children and promoting society's interest in protecting children from the traumas commonly associated with divorce and custody disputes. See *Scaringe v. Herick*, 711 So.2d 204 (Fla. 2d DCA 1998); *Representing Children: Standards For Attorneys and Guardians Ad Litem In Custody or Visitation Proceedings (With Commentary)*, 13 J. Am. Acad. Matrim. Law. 1 (Summer 1995).

[7] Once appointed, the powers and authority of a guardian ad litem include investigation, discovery matters, requesting necessary examinations of the parties or the child, obtaining impartial examinations and making recommendations to the court. See § 61.403 Fla. Stat. (1997). However, the duties and responsibilities of a guardian ad litem are not coextensive with those of an attorney. See *Roski v. Roski*, 730 So.2d 413 (Fla. 2d DCA 1999); see also *Representing Children: Standards For Attorneys and Guardians Ad Litem In Custody or Visitation Proceedings (With Commentary)*, 13 J. Am. Acad. Matrim. Law. 1 (Summer 1995) (a guardian ad litem who is also an attorney should not combine the roles of counsel and guardian; Standard 3.1). In fact, Section 61.401, Florida Statutes (1997) specifically provides that the role of a guardian ad litem is "to act as next friend of the child, investigator or evaluator, not as attorney or advocate." See also, § 61.403 Fla. Stat. (1997).

And so we come to the crux of our concerns in these proceedings. Section 61.401 states that the guardian shall not act as an advocate and the Guardian's role is defined as limited to the specific litigation in which the Guardian is appointed. See *Roski v. Roski*, 730 So.2d at 413; *Black's Law Dictionary* 70 (6th ed.1990). Section 61.403 delineates the Guardian's powers and authority in the context of trial court proceedings. Nowhere is there any reference to appellate court proceedings in the statutes pertaining to the responsibilities of guardians ad litem.<sup>FN7</sup>

FN7. The Former Husband contends that

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Section 61.401 should be interpreted broadly as permitting guardians ad litem to participate in appellate proceedings, because this Section states the guardian "shall be a party to any judicial proceeding." We disagree for the reasons discussed throughout this opinion, and based upon our conclusion that the statute's reference to the guardian's status as a party in judicial proceedings, refers to the trial court proceedings in which the guardian was appointed. Our interpretation is consistent with the prohibition against guardian's acting as advocates contained within this very same section, and with common sense.

[8] An appellate court is not a fact-finding court and there is simply no proper role for a Guardian at the appellate level. The Guardian fulfilled her statutorily defined duty when she completed her investigation and report to the trial court—the court in which she was appointed.<sup>FN8</sup>

FN8. We note that the Guardian's report is part of the appellate record and is at the disposal of both the Former Husband and the Former Wife in this proceeding.

[9][10] When attorneys are appointed to serve as guardians ad litem, their roles in the litigation process are significantly different than the roles they would otherwise assume as lawyers. Guardians ad litem are required to act in the best interests\*394 of children even if this conflicts with the children's wishes, and must serve as independent fact investigators. The filing of motions and a brief by the Guardian in appellate proceedings conflicts with these functions, and violates the statutory prohibition against Guardians acting as advocates. See § 61.403 Fla. Stat. (1997); *Scaringe v. Herrick*, 711 So.2d at 204. Simply, the Guardian does not have a statutory right to appear in these proceedings. See *Betz v. Betz*, 254 Neb. 341, 575 N.W.2d 406, 410 (1998).<sup>FN9</sup>

FN9. Although *Betz* involved the role of the guardian ad litem at the trial court level, we find many of the observations made by the court as to the proper function of the guardian relevant to our analysis. The *Betz* court noted that the primary function of a guardian is to provide the appointing court with necessary information by way of admissible evidence.

The court further cautioned that: "A guardian ad litem may be an attorney, but an attorney who performs the functions of a guardian ad litem does not act as an attorney and is not to participate in the trial in an adversarial fashion such as calling or examining witnesses or filing pleadings or briefs." *Betz v. Betz*, 575 N.W.2d at 409 (emphasis added). For purposes of this decision, we agree with *Betz* that it is improper for a guardian ad litem to file a brief in an appellate proceeding. Such participation on appeal violates the proscription against a guardian ad litem assuming the role of an advocate, and exceeds the bounds of the guardian's limited duties toward the appointing trial court.

The Guardian is further prohibited from appearing in these proceedings because she is not a proper party under Rule 9.020, Florida Rules of Appellate Procedure. It is well established that only parties (or their representatives) who have suffered an adverse affect in the lower tribunal cause of action are entitled to participate in an appeal. See *Stas v. Posada*, 760 So.2d 954 (Fla. 3d DCA 1999); *Orange County, Fla. v. Game and Fresh Water Fish Commission*, 397 So.2d 411 (Fla. 5th DCA 1981); Florida Civil Practice Guide, Vol. 6, § 143.03 (Lexis Publishing 1998).

[11] Rule 9.020 defines the "parties" to an appeal as the "appellant" and the "appellee." Neither the Former Husband nor the Former Wife sought relief against the children. Further, minor children in a

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custody proceeding are not considered as "necessary parties" to the action. See *Shienvold v. Habie*, 622 So.2d 538 (Fla. 4th DCA 1993). Therefore, it is manifestly obvious that the minor children in this case are not "parties" to this proceeding, and thus the Guardian cannot appear on their behalf.

[12] We are also disturbed by the Guardian's retention of an attorney to represent the Guardian in the appellate proceedings. As noted earlier, on the same day the Guardian filed her notice of appearance "on behalf of the children," an attorney filed a notice of appearance "on behalf of the Guardian." However, this attorney had never been appointed by any court to serve in any capacity in this case. There is no authority permitting a Guardian to retain counsel on behalf of herself in an appeal, where the Guardian is not a party to the proceedings, and where the Guardian is purportedly appearing on behalf of children who are also not parties in the appellate proceedings. See generally *Betz v. Betz*, 254 Neb. 341, 575 N.W.2d 406, 410 (1998)(a guardian who feels the need to retain an attorney should apply to the appointing court for permission).

In conclusion, there is no authority for a Guardian, or an attorney purportedly representing a Guardian, to submit motions or a brief in a child custody appeal.<sup>FN10</sup> Guardians\*395 render an important service to the courts of this state, and we recognize that the lines separating the functions of an attorney as Guardian and an attorney as advocate, can become easily blurred. We hope the line has now become more distinct.

FN10. Nothing in this opinion shall be construed as affecting the role of a Guardian in other types of cases, or in the obvious situation where a child is the real party interest. See generally, *S.A.P. v. State, Dep't of Health and Rehabilitative Servs.*, 704 So.2d 583, 585 (Fla. 1st DCA 1997)(minor may not bring action on her own behalf, and can only sue by and through a guardian ad litem, next friend or other duly ap-

pointed representative); *Kingsley v. Kingsley*, 623 So.2d 780, 784 (Fla. 5th DCA 1993)(guardian ad litem or next friend is required to represent a minor in a termination of parental rights case), *review denied*, 634 So.2d 625 (Fla.1994); Fla. R. Civ. P., Rule 1.210(b) (minors do not have legal capacity to initiate legal proceedings in their own names).

The Former Wife's motion is granted. The motions filed by the Guardian are stricken, and the Guardian, as well as counsel appearing on behalf of the Guardian, are prohibited from filing an appellate brief as a party in these proceedings.<sup>FN11</sup>

FN11. The Guardian's motion for leave to file an amicus curiae brief pursuant to Florida Rule of Appellate Procedure 9.370 is granted. The Guardian is permitted to file an amicus curiae brief only.

Motion to prohibit granted.

SHEVIN, Judge, concurs.SORONDO, J. (specially concurring).

I agree with the majority that the guardian ad litem does not have standing to file a brief in this case. I write separately because I arrive at the same conclusion through a somewhat different analysis.

Deborah Perez (the mother), argues that the statute's mandate that the guardian "act as next friend of the child, investigator or evaluator, not as attorney or advocate," in section 61.401, Florida Statutes (1997), precludes the guardian from taking a position in this appeal because the guardian's arguments will place her in the role of advocate.<sup>FN12</sup> The mother further argues that the appointment of the guardian by the lower court does not authorize her to file pleadings in this Court.

FN12. Needless to say, the guardian's position in this case is contrary to that of the mother.

Jorge M. Perez (the father), responds that the stat-

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ute is ambiguous because although it sets forth the language cited above, the statute also makes the guardian a "party." This elevates the guardian to the same level as the other parties in the case, the father and the mother. As such the guardian has the right to file pleadings with this Court in furtherance of the best interest of the children.

When first passed by the Florida Legislature, section 61.401 Florida Statutes (Supp.1990), as pertinent here, read as follows:

Appointment of guardian ad litem.-In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to represent the child.

As relevant to the issues before us, section 61.403, Florida Statutes (Supp.1990), stated:

Guardians ad litem; powers and authority.-A guardian ad litem when appointed shall act as a representative of the child and shall act in the child's best interest.

In 1994, the Legislature amended both statutes. Section 61.401 was amended to read:

Appointment of guardian ad litem.-In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to *act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for the child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. ...The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.*

Ch. 94-204, § 3, Laws of Fla. (amending § 61.401, Fla. Stat. (1993))(emphasis added).\*396 Section 61.403, as pertinent here, was also amended: Guardians ad litem; powers and authority. A guardian ad litem when appointed shall act as *next friend*

of the child, *investigator or evaluator, not as attorney or advocate but shall act in the child's best interest.*

Ch. 94-204, § 5, Laws of Fla. (amending § 61.401, Fla. Stat. (1993)) (emphasis added).

In 1994, the legislature excised all language concerning the "representation" of the child, and included language specifically stating that the guardian was not to act as "attorney or advocate." The amended statute went on to provide that the trial court could appoint counsel for the child to serve that function. The legislature clearly intended that the function of the guardian be one of "next friend" to the child. This role includes the power to investigate and evaluate the case, and to make recommendations to the trial judge which are consistent with the best interest of the child. See § 61.403(5), (8), Fla. Stat. (1997). In short, the guardian's role is to discover, analyze and communicate facts to the judge which will assist the trial court in the performance of its duty to determine the best interest of children in divorce proceedings. The role of advocate for the child, the legislature reserved for counsel, which the court can appoint if it considers appropriate and necessary. The trial judge in this case did not appoint counsel.

The father's argument that the guardian's elevation to the status of "party" gives her the right to file pleadings in this Court is unpersuasive. First, it is clear that the guardian is not a party to this action in the strict and acknowledged sense of the word. In defining the word, Black's Law Dictionary 1122 (6th ed.1990) states:

"Party" is a technical word having a precise meaning in the legal parlance; it refers to those by or against whom a legal suit is brought, whether in law or equity, the party plaintiff or defendant, whether composed of one or more individuals and whether natural or legal persons; all others who may be affected by the suit, indirectly or consequently, are persons interested but not parties.

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*See also* 59 Am.Jur.2d Parties § 7 (1987)(The word party or parties "designates the opposing litigants in a judicial proceeding-the persons seeking to establish a right and those upon whom it is sought to impose a corresponding duty or liability ..."). Under this definition the guardian in this case is not a party. Accordingly, the guardian is a "party" in this judicial proceeding only because the legislature has made her such. Because this status is created by statute it can be defined by statute, and the statutes in question do just that. The legislature first chose to limit the guardian's role as a "party" by forbidding her from acting in a certain way, i.e. as an advocate for the child. Next, in section 61.403(2), (3), and (6), the legislature required the guardian to petition the court and file pleadings only through counsel-a "true" party could do so *pro se*. Finally, the guardian does not become a party at the inception of the litigation or because she has a personal interest, she attains that status by judicial appointment and retains her identity as such only until discharged by the judge. Thus, although the legislature has created this special class of "party," it has also defined its limitations. As I read the statute, the guardian does not have a party's right to file pleadings in this Court because this will, mandatorily, require her to become an advocate.

The majority correctly observes that there is no role for the guardian to play in this Court because all factual issues and determinations have been fully developed below. This Court is in a position to read the record of the lower court, which contains all of the guardian's contributions to this lawsuit. A brief review of that record indicates that the guardian's position is the same as that of the father in this case and has been repeatedly and zealously expressed in both the lower court and this \*397 Court. Indeed, the father relies heavily on the recommendations of the guardian. The guardian's presence in this appellate proceeding is therefore superfluous.

I do acknowledge that in certain cases the guardian may serve a valuable role on appeal. Usually, the guardian's recommendations will bolster the legal

position of one of the parents. There are extraordinary cases, however, where the guardian's conclusions could be detrimental to both parents. I refer specifically to cases which contain issues concerning the parents' mental and emotional stability and cases involving domestic violence and/or child abuse. In such cases, a guardian could recommend that neither parent be awarded custody or that custody should be predicated upon a particular parent's participation in some type of psychological counseling. These cases may call for a guardian to file a brief in an appeal and this Court has the authority, which the majority has chosen to exercise in this case, to allow the guardian to appear as *amicus curiae* pursuant to rule 9.370 of the Florida Rules of Appellate Procedure.<sup>FN13</sup> I do not believe that this appeal calls for the guardian's participation.

FN13. Even under these circumstances the guardian must seek leave of court to hire counsel. I join the majority in its conclusion that the guardian's *sua sponte* decision to hire counsel in this case, presumably at the expense of the parties, was highly improper.

Fla.App. 3 Dist., 1999.  
 Perez v. Perez  
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RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

CRIMINAL DIVISION "W"

CASE NO. 502008CF009381AXXMB  
502006CF009454AXXMB

STATE OF FLORIDA,

vs.

JEFFREY EPSTEIN,  
Defendant

---

**ORDER**

THIS MATTER came before the Court on the following:

- a) Non-party E.W.'s Motion to Vacate Order Sealing Records and Unseal Records
- b) Palm Beach Post's Motions to Intervene and Petition for Access
- c) B.B.'s Motions to Intervene and for an Order to Unseal Records
- d) Jeffrey Epstein's Motion to Make Court Records Confidential

A hearing was conducted on these matters on June 25, 2009. The Court notes that Mr. Goldberger, Esq. and Mr. Critton, Esq. were present on behalf of Jeffrey Epstein. Ms. Shullman, Esq. was present on behalf of the Palm Beach Post, Mr. Berger, Esq. and Mr. Edwards, Esq. were present on behalf of E.W., Mr. Kuvin, Esq. was present on behalf of B.B., Assistant State Attorney Barbara Burns was present on behalf of the State of Florida. No appearance was filed on behalf of the United States. After giving an opportunity for all parties to be heard, the Court finds as follows:

1. The State of Florida charged the Defendant, Jeffrey Epstein, with Felony Solicitation of Prostitution.
2. The State of Florida and Mr. Epstein came to a negotiated resolution of the charges. Part of that resolution included an agreement entered into between Mr. Epstein and the United States. At the plea conference in State court Mr. Epstein plead guilty to the State charges. At the plea conference the agreement between Mr. Epstein and the United States were made part of this Court's record. The agreement was sealed in two separate filings. At the time the State court took these matters under seal, the proper procedure for sealing such documents had not been followed. The June 25th hearing was to give Mr. Epstein, the State, and/or the United States an opportunity to comply with the well-defined and narrow parameters for sealing such documents. After hearing argument of counsel, the Court makes the following findings and rulings:
  - 1) Neither the State of Florida nor the U.S. Government nor Mr. Epstein have presented sufficient evidence to warrant the sealing of documents currently held by the Court.
  - 2) The Motions to seal the Court records are denied.
  - 3) The Motions to intervene are granted.
  - 4) The Motion to unseal the documents is granted.

- 5) The originals will not be disclosed, however the undersigned will do an in-camera inspection and redact the names of the underage victims, if any, so their identity will be indicated by their initials.
- 6) This Order is in no way to be interpreted as permission to not comply with U.S. District Court Kenneth Marra's previous Orders.
- 7) The disclosure of the sealed documents shall be stayed at least until June 26, 2009, at 9:00 a.m., at which time the Court will hear "Epstein's Motion to Stay Disclosure of Non-Prosecution Agreement and Addendum Pending Review".

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this  
\_\_\_\_ day of June, 2009.

SIGNED AND DATED  
JUN 25 2009  
JEFFREY J. GOLDBATH  
Circuit Court Judge

Copies furnished:

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Page Four

Case No. 502008CF009381AXXMB/502006CF009454AXXMB

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RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

CASE NO. 502008CF009381AXXMB  
502006CF009454AXXMB

STATE OF FLORIDA,

VS.  
JEFFREY EPSTEIN,  
Defendant

**ORDER DENYING MOTION TO STAY DISCLOSURE AGREEMENT**

THIS MATTER came before the Court at a hearing on June 26, 2009, on Jeffrey Epstein's Motion to Stay the Disclosure of the Non-Prosecution Agreement and the Addendum thereto. The Court notes the parties were present and represented by counsel. Based upon argument, it is

ORDERED AND ADJUDGED that

1. The Motion to Stay is denied.
2. The Clerk of Court shall make the documents available for disclosure at noon on Thursday, July 2, 2009. It is the intent of the Court to give the Defendant, Mr. Epstein, and his attorney an opportunity to have this Court's orders reviewed by the 4<sup>th</sup> DCA. If the Clerk gets no direction from the Appellate Court, she shall disclose the documents on the date referred to above.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this

\_\_\_ day of June, 2009.

JEFFREY J. COLBATH  
Circuit Court Judge

SIGNED AND DATED

JUN 26 2009

JEFFREY J. COLBATH

Page Two

Case No. 502008CF009381AXXMB/502006CF009454AXXMB  
Order Denying Motion to Stay Disclosure Agreement

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RECYCLED PAPER



TO REORDER CALL 954-846-9399

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

STATE OF FLORIDA )  
)  
vs. )  
)  
JEFFREY EPSTEIN, )  
)  
Defendant. )  
----- )

CASE No. 2008CF009381AXX

**CERTIFIED COPY**

PROCEEDINGS BEFORE THE COURT

PRESIDING: HONORABLE JEFFREY COLBATH

APPEARANCES:

ON BEHALF OF THE STATE:

BARRY E. KRISCHER, ESQUIRE  
State Attorney  
401 North Dixie Highway  
West Palm Beach, Florida 33401  
By: BARBARA BURNS, ESQUIRE  
Assistant State Attorney

ON BEHALF OF THE DEFENDANT:

JACK GOLDBERGER, ESQUIRE  
250 S Australian Ave Ste 1400  
West Palm Beach, Florida 33401  
And  
ROBERT CRITTON, ESQUIRE  
515 N Flagler Dr Ste 400  
West Palm Beach, Florida 33401

ON BEHALF OF THE PALM BEACH POST:

DEANNA SHULLMAN, ESQUIRE  
Thomas, LoCicero & Bralow  
101 N.E. 3rd Avenue - Ste 1500  
Fort Lauderdale, Florida 33301

ON BEHALF OF EW, THE INTERVENER:

WILLIAM J. BERGER, ESQUIRE  
BRAD EDWARDS, ESQUIRE  
225 NE Mizner Blvd Ste 675  
Boca Raton, Florida 33432

SUSAN WIGGINS, R.P.R. AND OFFICIAL COURT REPORTER

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ON BEHALF OF EB,  
MOTION INTERVENER'S PLEADING:  
SPENCER KUVIN, ESQUIRE  
2925 PGA Blvd Ste 200  
Palm Beach Gardens, Florida 33410

June 25, 2009  
Palm Beach County Courthouse  
West Palm Beach, Florida 33401  
Beginning at 1:50 o'clock, p.m.

SUSAN WIGGINS, R.P.R. AND OFFICIAL COURT REPORTER

1 BE IT REMEMBERED that the following  
2 proceedings were had in the above-entitled cause  
3 before the HONORABLE JEFFREY COLBATH, one of the  
4 judges of the aforesaid court, at the Palm Beach  
5 County Courthouse, located in the City of West  
6 Palm Beach, State of Florida on June 25, 2009  
7 beginning at 1:50 o'clock, p.m. with appearances  
8 as hereinbefore noted, to wit:

9 THEREUPON:

10 THE COURT: Let me call up the case  
11 of the state of Florida versus Jeffrey  
12 Epstein. Let me have counsel announce  
13 their appearances for the record.

14 MS. SHULLMAN: Deanna Shullman of  
15 Thomas, LoCicero & Bralow on behalf of the  
16 Palm Beach Post.

17 THE COURT: Ms. Shullman, nice to see  
18 you again, good morning.

19 MS. SHULLMAN: You too.

20 MR. GERBER: William J. Berger for  
21 EW, the intervener.

22 MR. EDWARDS: Brad Edwards also on  
23 behalf of the EW.

24 MR. KUVIN: Spencer Kuvin on behalf  
25 of EB, motion intervener's pleading.

SUSAN WIGGINS, R.P.R. AND OFFICIAL COURT REPORTER

1 MR. GOLDBERGER: Good afternoon,  
2 Judge, Jack Goldberger and Robert Critton  
3 on behalf of Jeffrey Epstein.

4 THE COURT: And I'm guessing that,  
5 Mr. Kuvin, if I grant the motion to unseal  
6 that which has been sealed, your motion to  
7 intervene will be moot.

8 MR. KUVIN: Will be.

9 THE COURT: I thought so. This is  
10 what I'm thinking and -- oh, we've got  
11 more.

12 MS. BURNS: One more appearance,  
13 excuse me, Judge, Barbara Burns on behalf  
14 of the state of Florida, the state  
15 attorney's office of the 15th Judicial  
16 Circuit.

17 THE COURT: All right. Procedurally,  
18 I think the way that this came to us is  
19 that at the conclusion or at some point  
20 during a plea conference between the state  
21 of Florida and Mr. Epstein, the state and  
22 the defense hand an agreed order to  
23 Judge Puccillo.

24 MS. BURNS: Puccillo.

25 THE COURT: And asked her to sign an

1 agreement to seal some portion of some  
2 documents, which she signed off on and now  
3 it is the intervener's and the Post's  
4 motion to unseal those documents; is that  
5 kind of procedurally where we are?

6 MR. GOLDBERGER: Procedurally not  
7 exactly correct, I don't know if you want  
8 me to clarify that.

9 THE COURT: Please do.

10 MR. GOLDBERGER: Your Honor, this  
11 started during the course of a plea  
12 colloquy in Mr. Epstein's state proceeding  
13 before Judge Puccillo, who is a retired  
14 senior judge who was filling in for  
15 Judge McSorley on that day, who was the  
16 judge assigned to this division. It was a  
17 plea agreement with the state attorney's  
18 office and it is normal and consistent with  
19 any plea colloquy Judge Puccillo asked the  
20 defense whether there were any other  
21 promises or inducements for Mr. Epstein to  
22 enter into his plea agreement other than  
23 what was contained in the state standard  
24 plea agreement that we had. I felt  
25 obligated under the circumstances to alert

1 to the Court that there was a confidential  
2 agreement between Mr. Epstein's --  
3 Mr. Epstein's attorneys and the United  
4 States attorney's office for the Southern  
5 District of Florida which would have been  
6 triggered upon the successful taking of the  
7 plea by Judge Puccillo.

8 In other words, if the plea was  
9 accepted by Judge Puccillo, there's a  
10 confidential agreement between U.S.  
11 attorney's office and the defense that  
12 would be triggered and they would agree not  
13 to take some actions against Mr. Epstein.  
14 I advised Judge Puccillo of that, and at  
15 that time she said she would like to see  
16 the matter sealed in the court file. I  
17 said fine, and then we later -- I then  
18 filed that document, and the clerk's office  
19 notified me and said we need an order  
20 sealing this, and we submitted an order to  
21 seal the document.

22 THE COURT: All right. Is there  
23 anybody here from the U.S. attorney's  
24 office? Has anybody notified them, or is  
25 there a dog in this fight or do they care?

1 If they're a party to this confidential  
2 thing, wouldn't you think that they might  
3 be.

4 MR. GOLDBERGER: Your Honor, they  
5 have been noticed. They have taken a  
6 position in parallel proceedings that this  
7 matter should remain confidential, and they  
8 have done that in federal court, and I  
9 believe that is their position still.

10 MR. EDWARDS: Your Honor, I have been  
11 in communication with the U.S. attorney's  
12 office, and they are not taking a position  
13 on this issue, which is why they're not in  
14 court right now.

15 THE COURT: What's going on in  
16 federal court?

17 MR. GOLDBERGER: There are a number  
18 of civil cases that are pending right now.

19 THE COURT: And they're talking about  
20 the same documents that are under seal here  
21 in our court?

22 MR. EDWARDS: Yes.

23 MR. GOLDBERGER: Yes, your Honor, and  
24 I will address that at the appropriate time  
25 what's going on here.

1 THE COURT: All right. So thank you,  
2 Mr. Goldberger for getting that  
3 straightened out.

4 MR. GERBER: Judge, just to clarify  
5 one other point.

6 THE COURT: Sure.

7 MR. GERBER: I think actually there's  
8 an additional step because Mr. Goldberger  
9 on behalf of Mr. Epstein or Mr. Critton I  
10 believe filed motion, and I think that that  
11 will tell us who goes first today and who  
12 has the burden today.

13 THE COURT: This is -- and I'm  
14 thinking outloud that my take on that is  
15 that my review of the file shows that the  
16 appropriate steps to seal these documents  
17 wasn't followed initially. I'm looking at  
18 it as it would be whoever's moving to have  
19 them sealed, it's their burden to prove the  
20 steps that you have to prove to get things  
21 sealed by the Court, and so that's -- I  
22 hinted last meeting that we all had  
23 together but that's where I'd go, so I'd  
24 shift the burden over to the federal  
25 government and to Mr. Epstein, that's what

1 I'm thinking. Let me ask first go over to  
2 the Post, Ms. Shullman, what are your  
3 thoughts on that procedure?

4 MS. SHULLMAN: Your Honor, I think  
5 that's the correct procedure here. I think  
6 Mr. Epstein's motion to make court records  
7 confidential tacitly admits what we  
8 suspected last time, which was that the  
9 initial closure of the documents was not  
10 done pursuant to the acceptable procedures.

11 THE COURT: All right. Mr. Berger,  
12 Mr. Edwards, that's all right with you?

13 MR. EDWARDS: We agree.

14 MR. GERBER: That's what my point  
15 was, yes, your Honor, thank you.

16 THE COURT: Mr. Goldberger, what do  
17 you think?

18 MR. GOLDBERGER: That's fine, your  
19 Honor, with the -- I'll wait until after  
20 the proceeding.

21 THE COURT: All right. You may  
22 proceed.

23 MR. GOLDBERGER: Judge, as I said to  
24 clarify the record, this matter started  
25 during the course of Mr. Epstein's plea

1 colloquy in state court and just so that  
2 the record was clear that all inducements  
3 for Mr. Epstein's plea was on the record  
4 when Judge Puccillo asked me if there had  
5 been any promises made to Mr. Epstein, I  
6 think properly and ethically we told the  
7 Court that there was an agreed --  
8 confidential agreement with the federal  
9 government that was in place that basically  
10 said we will not prosecute Mr. Epstein for  
11 federal offenses if the state plea  
12 agreement is accepted by the Court and  
13 Mr. Epstein's sentence is imposed.

14 The state proceeding was over at the  
15 time that I advised Judge Puccillo that, in  
16 other words, we had gone through the plea  
17 colloquy and I simply was advising her of  
18 this other agreement. It was  
19 Judge Puccillo who then asked us to  
20 approach, and the Court has a copy of that  
21 transcript, I believe. It was  
22 Judge Puccillo that said I'd like to have  
23 that document sealed in the court file, and  
24 I acquiesced to that, I said that's fine.

25 So, first, as a preliminary matter,

1 it wasn't like we were coming into court on  
2 that day and asking to seal something, so  
3 it would have been presumptuous of me to  
4 file something to request to have something  
5 sealed when it came up during the course of  
6 the proceeding, and, in fact, the committee  
7 notes on the rule of judicial  
8 administration talk about that and say  
9 matters come up all the time during the  
10 course of hearings and the fact that  
11 something is not filed in advance does not  
12 necessarily taint the entire process, so we  
13 agreed to come forward and file our motion  
14 to seal after the fact, because we didn't  
15 know this matter would be coming up.

16 But having said that, Judge, this  
17 confidential agreement was not part of any  
18 state plea agreement, it's not part of the  
19 proceedings, it was ancillary to the state  
20 proceedings and it had nothing to do with  
21 the state proceedings. As an accommodation  
22 to Judge Puccillo, we filed it in the court  
23 file. Quite frankly, it's unnecessary, it  
24 doesn't need to be there, and the simplest  
25 approach would be to simply remove it from

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1           whether this nonprosecution agreement  
2           should be released to the plaintiffs for  
3           their use.

4                     Judge Marra heard two hearings on  
5           this matter and the court has those orders.  
6           And in the first hearing Judge Marra very,  
7           very, carefully balanced the  
8           confidentiality issues of the  
9           nonprosecution agreement, the intent of the  
10          parties as well of the rules of criminal  
11          procedure that I will talk about in a  
12          moment, with the plaintiff's right to know  
13          what's going on and to have access to this  
14          agreement. And Judge Marra crafted an  
15          order and in the nature of a protective  
16          order and said, plaintiffs, you can have  
17          this nonprosecution agreement, you can use  
18          it, you can review it, you cannot give it  
19          to anyone else other than your clients, and  
20          if you want to use it or you want to give  
21          it to your clients, you need to tell them  
22          about this order that is not to be  
23          disclosed to anybody else. And these  
24          plaintiffs that are sitting here will tell  
25          you that from day one they have had this

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1 nonprosecution agreement, they have it for  
2 their use, they know every clause that's in  
3 that nonprosecution agreement, and I  
4 suggest to the Court as to their motions  
5 why are we here; they have an agreement  
6 already.

7 They went back to Judge Marra  
8 sometime thereafter and asked the Court to  
9 expand their use of the nonprosecution  
10 agreement, and they said, Judge Marra, we  
11 have the nonprosecution agreement but we  
12 would like to be able to disclose that  
13 agreement to other sides, and Judge Marra  
14 in another carefully crafted order said,  
15 nuh-uh, no, you have not satisfied your  
16 burden, you cannot disseminate this to  
17 anyone else, and the order that I have  
18 entered remains in place, but most  
19 significantly he said, you know what, this  
20 is without prejudice.

21 If you have some basis, you have some  
22 need that you have not briefed, you have  
23 not litigated with me yet concerning  
24 dissemination of nonprosecution agreement,  
25 come back to me and I'll review it for you.

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1 absolutely 100 percent protected from  
2 disclosure by Federal Rule of Criminal  
3 Procedure Six. I have a copy of that rule  
4 for the Court.

5 THE COURT: Let me take a look of  
6 that, please.

7 MR. GOLDBERGER: Give us one moment,  
8 your Honor, we have it here somewhere.

9 MR. KUVIN: Your Honor, just briefly  
10 while they're looking on behalf of the  
11 plaintiff EB, I just wanted to point out on  
12 my client motion to intervene, we are not  
13 party to the federal action. She only has  
14 a state court claim. She's not bound by  
15 any federal court order, she is not with  
16 the federal court on their claim, so as to  
17 that issue, my client stands here  
18 synonymous with the Post.

19 THE COURT: Thank you for pointing  
20 that out to me.

21 MR. GOLDBERGER: We'll have it for  
22 you in one moment, your Honor.

23 Your Honor, Federal Rule of Criminal  
24 Procedure Six is a rule that deals with  
25 grand jury proceedings, and it confers in

1 the federal system secrecy of all grand  
2 jury matters and it's pretty clear in this  
3 case that the nonprosecution agreement  
4 specifically talks about a grand jury  
5 investigation of Mr. Epstein, there's  
6 specific reference to a grand jury  
7 investigation in the nonprosecution  
8 agreement.

9 The rule does not prevent us from  
10 telling the Court that there was a grand  
11 jury investigation of Mr. Epstein, but what  
12 it prevents us from doing, what it prevents  
13 this Court from doing, I believe, is  
14 disclosing the content of the grand jury  
15 investigation, and the agreement itself is  
16 very specific as to the grand jury  
17 investigation of Mr. Epstein.

18 However, all is not lost for the Palm  
19 Beach Post and the intervenors, for that  
20 matter. The rule has a specific procedure  
21 that allows you to go to the district court  
22 where the grand jury is convened, in this  
23 case it would be in the Southern District  
24 of Florida before Judge Marra and that is  
25 under Rule 6E, your Honor, I think it's 6E

1 3E actually. It says: In limited  
2 circumstances the Court may authorize  
3 disclosure of grand jury matters under  
4 request made in connection with the  
5 judicial proceeding, so -- and the rule  
6 goes onto clearly say, that request must be  
7 filed in the district where the grand jury  
8 is proceeding.

9 So the first -- you know the Palm  
10 Beach Post may have first amendment rights  
11 to access but those first amendment rights  
12 cannot circumvent the federally protected  
13 secrecy of grand jury proceedings and  
14 that's what the Post is doing by making  
15 this request before this Court.

16 This matter has been sealed for  
17 almost a year now, 11 months and some days  
18 and the Palm Beach Post has not filed  
19 anything in this matter until most  
20 recently, and their remedy is to go into  
21 the federal court and invoke the process of  
22 Rule Six and asked Judge Marra to make a  
23 limited disclosure of the nonprosecution  
24 agreement and the grand jury matters that  
25 are contained therein. Who knows whether

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