Paul G. Cassell, Esq.
[redacted]

October 23, 2010

[redacted]
U.S. Attorney's Office
for the Southern District of Florida
99 N.E. 4th Street
Miami, FL 33131Via [redacted]

Re: Protecting the Rights of Jane Doe #1 and Jane Doe #2

Dear Dexter:

First, as mentioned before, please feel free to call me "[redacted]" rather than "Judge Cassell." Brad Edwards and I hope to build a close and friendly working relationship with you as we proceed with our efforts to protect victims' rights. Also, if you could copy [redacted] on our e-mails, that would be helpful at our end. (Do you want me to "cc" [redacted]).

On behalf of Jane Doe #1 and Jane Doe #2 ("the victims"), I am writing to respond to the e-mail you sent to me yesterday. I am happy to hear that the Government will now agree with factual assertions that we present if they are correct. Attached along with this letter is a draft statement of facts section that the victims are in the process of preparing to file with the Court on October 27, 2010. The victims of course request your agreement to all of the facts presented there, as they obviously believe that they are all correct.

If you believe that any of the facts they propose are incorrect, Jane Doe #1 and Jane Doe #2 would reiterate their long-standing request that you work with us to arrive at a mutually-agreed statement of facts. As you know, in the summer of 2008 Jane Doe #1 and Jane Doe #2 were working with you on a stipulation of facts when you reversed course and took that position that no recitation of the facts was necessary (*see* doc. #19 at 2). In particular, on July 29, 2008, you filed a Notice to Court Regarding Absence of Need for Evidentiary Hearing (doc. #17). At that time, you took the position that, because no federal criminal charges had been filed in the Southern District of Florida, no additional evidence was required to decide the victims' petition that was before the Court. I hope that your e-mail means that you will at least look at our facts and propose any modifications that you deem appropriate. Having that evidence quickly available to the Court could well help move this case to a conclusion.

As you also know, because of the Government's decision not to work with us on agreed facts, we have had to secure information regarding the basis for your Office's treatment of the

victims from other sources. This has been an arduous process, since the only remaining source for much of the information was Jeffrey Epstein. As you know, he is a politically-connected billionaire that employs legions of attorneys to obstruct any efforts to obtain information from him. Fortunately, after extended litigation, on June 30, 2010, we obtained information from him that was highly relevant to the treatment of Jane Doe #1 and Jane Doe #2 in the criminal justice system – namely, correspondence between your Office and legal counsel for Jeffrey Epstein during the negotiations surrounding the non-prosecution agreement. Many of our "facts" come straight from these e-mails. I trust that you will agree that our recitations of the e-mails are correct and that they accurately reflect communications between your Office and Epstein's legal counsel during the plea negotiation process.

As you will note, Epstein's legal counsel redacted half of the correspondence – specifically, all statements made by them to your Office. While this was done in violation of the court-ordered production, we never obtained a ruling on our motion for contempt because Epstein settled his civil cases with the victims shortly after we filed the contempt motion. Of course, that undisclosed half of the correspondence remains highly relevant to the issues under discussion in this CVRA case. We are continuing to try to obtain that information in Florida state court. While we have previously been politely rebuffed by you in our efforts to gain more information about Jane Doe #1 and Jane Doe #2's treatment, I wanted to make one more request to you to provide (in particular) the other half of the correspondence connected with the non-prosecution agreement. This correspondence would be highly useful to the victims, as well as to the Court, in developing a complete factual recording surrounding the victims' treatment.

On another note, I was surprised to see in your e-mail what seemed to be a request for the victims to file a formal civil complaint. In particular, you stated: "No complaint has been filed [by the victims], which is the normal mechanism for commencing a civil action. Consequently, the government has not filed an answer." In July 2008, we elected to file a petition on behalf of Jane Doe #1 and Jane Doe #2 asking the Court to declare a CVRA violation – rather than a civil complaint. I have been involved in CVRA enforcement actions across the country at all levels of the federal courts, and this approach is the normal one for these courts (including courts of this Circuit). *See, e.g., In re Stewart* (11th Cir. 2008) (CVRA enforcement action commenced by motion); *In re Antrobus* (10th Circuit 2008) (same); *In re Dean* (5th Cir. 2008) (same). Indeed, in an important case in the District of Montana involving enforcement of victims' rights in the W.R. Grace case, I proceeded in this fashion at the direction of the Justice Department (i.e., the U.S. Attorney for the District of Montana, with whom we were working closely). *In re Parker* (9th Cir. 2009). So far as I can recall, in none of our previous discussions in this case have you raised the suggestion that a civil complaint was necessary to the resolution of this matter. Nor have you raised any such suggestion in court on previous hearings in this case. Would you be willing to explain what procedural steps you think we need to bring this matter to a conclusion? That way we can work with you to avoid unnecessary procedural wrangling. The Justice Department is, of course, statutorily obligated to use its "best efforts" to "see that crime victims are . . . accorded the rights described in [the CVRA]." 18 U.S.C. § 3771(c)(1). Raising previously-undisclosed procedural objections to crime victims' efforts to protect their rights does not seem consistent with your Office's statutory obligations.

I was also surprised to read in your e-mail the statement that "[w]e will also be seeking dismissal on the ground of failure to prosecute." On behalf of Jane Doe #1 and Jane Doe #2, I respectfully ask you to reconsider that decision to attempt to throw another procedural roadblock in the path of the victims as they seek to secure their rights. Any such motion would not be legally well-founded. And I would be less than candid if I did not report to you our perception that, with all due respect, such a motion would smack of Government sandbagging of the victims. We presume that you and others in your office (i.e., Assistant U.S. Attorney Marie Villafaña) have been well aware of Jane Doe #1's and Jane Doe #2's efforts that past year-and-a-half to obtain information from Epstein relevant to their CVRA case. And during that time, Bradley J. Edwards and I have had many formal (and informal) contacts with the U.S. Attorney's Office. Until yesterday, no one in the Office has ever suggested that we had been less than diligent in pursuing the CVRA case or that we needed take steps other than the ones we were pursuing. For example, as you know, on September 13, 2010, we filed with the Court a notice in this CVRA case regarding our intention to make additional filings shortly. In that notice, we specifically offered to the Court (if it thought it helpful) to set up a scheduling conference with your Office to bring the case to an expeditious conclusion. That notice was served on your Office via the PACER electronic filing system. Yet, in spite of that offer to set up a scheduling conference made more than a month ago, your Office said nothing to the victims about doing so – until informing them yesterday of your intent to argue that we have failed to diligently prosecute the action.

Jane Doe #1 and Jane Doe #2 believe that any such motion to dismiss their case would violate your Office's statutory obligations to use its "best efforts" to protect their rights. 18 U.S.C. § 3771(c)(1). To make a motion to dismiss for failure to prosecute, your Office would be required to assume the truth of the allegations made by the victims (i.e., that your Office has violated their rights under the CVRA) but nonetheless move to dismiss their case. Your Office has never communicated to the victims any belief that any deadline was pending in the CVRA case or that our approach of attempting to obtain information through litigation with Epstein was somehow taking too long. A phone call or e-mail to us at any point during the process would have alerted us to your view on the issue and allowed us to work with you to address any concerns that you had about moving this case more rapidly. I respectfully submit that your silence on any need to move more quickly – at the same time as we were repeatedly in connect with Justice Department representatives – should lead you not to file any such failure-to-prosecute motion.

If after reviewing Jane Doe #1 and Jane Doe #2's points in this letter you still believe such a motion is appropriate, I respectfully request that you extend to them the same consideration that you extended to Jeffrey Epstein, the man who repeatedly sexually abused them. In particular, we would respectfully request an opportunity to confer and discuss such a motion before it is filed with: (1) The First Assistant U.S. Attorney in your Office; (2) if necessary, the U.S. Attorney; and (3) if necessary, the Child Exploitation and Obscenity Section of the Criminal Division of the Justice Department (CEOS).

As we have now learned from reading the e-mails, your Office decided to enter into a non-prosecution agreement with Jeffrey Epstein(and make numerous other concessions to him) only after his legal representatives were allowed to plead his case to the First Assistant, the U.S.

Attorney, and CEOS through repeated meetings, telephone calls, e-mails, and letters. These discussions appear to have been far more extensive than is normally allowed to criminal defendants (particularly sex offenders) prosecuted by your Office.

Unlike Epstein, Jane Doe #1 and Jane Doe #2 do not come from a wealthy background and lack political power. They nonetheless respectfully ask your Office to extend to them the same opportunities to protect their interests as you extended to him. Unlike Epstein – a man who committed numerous federal sexual offenses – they are innocent victims. Unlike Epstein – who had no right to engage in plea bargaining with your Office – they have a congressionally-promised "right" to "confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). Before taking any action that will prevent them from protecting their rights – including in particular filing a motion to dismiss – we respectfully request the same conferral rights that you gave Mr. Epstein with the First Assistant, the U.S. Attorney, and (if necessary) CEOS.

Finally, Mr. Edwards and I stand ready to work with you to narrow the range of issues under consideration in this case. The newly-revealed e-mails appear to make it clear that your Office made a decision not to inform that Jane Doe #1 and Jane Doe #2 (and other victims) about the non-prosecution agreement. If you would be willing to stipulate to that fact – and then fully pursue your legal arguments and responses to the significance of that fact – this might help to move the case along to a more expeditious conclusion. We would appreciate the opportunity to discuss this idea with you in a telephone conference call at a mutually convenient time.

Thank you again for your willingness to discuss all these issues. We look forward to continuing to work with you to protect the rights of Jane Doe #1 and Jane Doe #2.

Sincerely,

Paul G. Cassell
Counsel for Jane Doe #1 and Jane Doe #2