

XX. THE COURT CANNOT AND SHOULD NOT ACCEPT AS TRUE PETITIONERS' STATEMENTS OF FACT.

In DE 49, Petitioners ask the Court to accept as true their proposed "statements of fact" because they claim that the United States has failed "to advise the victims of what facts they are contesting." Petitioners then spend several pages reciting from letters and email correspondence between the parties in an attempt to persuade the Court to adopt as true the Petitioners' averments of fact even when the falsity of some of those facts is apparent from the text itself.

Contrary to their assertions, the Petitioners have not been attempting to negotiate with the government for more than 30 months. Until the Court issued its administrative order closing the case, there had been no contact regarding the CVRA petition in *years*. A flurry of activity ensued. Efforts were made to resolve the matter amicably, without success, including allowing the Petitioners, that is Jane Does 1 and 2, and their counsel, the opportunity to meet with the U.S. Attorney, as Jeffrey Epstein's attorneys were allowed to do.

Hours were spent trying to revise the Petitioners' proposed statement of facts so that it would contain only *facts*, not argument, not inferences, not incorrect innuendos. ^{E1} Even after the U.S. Attorney's Office was advised that the Justice Department's position was that the CVRA's rights only attached upon the filing of federal criminal charges and, hence, that none of the Petitioners' proposed facts were relevant, attempts were made. Petitioners' counsel, however, was uninterested in proposed compromises. Specific factual corrections also were suggested and rejected. Thus, some of the proposed "undisputed material facts" are known to be false by counsel for petitioners.

For example, during the investigation, Jane Doe #2 was not merely represented by counsel for Epstein, she was adverse to the investigation, and contacted other potential witnesses and advised them not to speak to investigators. When interviewed by the FBI and the U.S. Attorney's Office, Jane Doe #2 denied any sexual abuse by Epstein and said that he was an "awesome man" and that she would marry him.

Jane Doe #2 not only made the investigation of the case more difficult for the government, she also made the victim notification process more difficult. A great deal of the complaints made by the Petitioners come from the delay between the time that Epstein signed the NPA on September 24, 2007 and when he actually entered his guilty plea on June 30, 2008. (*See* DE 48 at ¶¶ 25, 32, *et seq.*) As set forth in their "Statement of Undisputed Facts," this was the period when Epstein "sought higher level review within the Department of Justice." (*Id.* at ¶ 32.) As is known to Petitioners, but as they neglected to mention in their "Statement of Undisputed Material Facts," one of the baseless allegations made against AUSA ██████████ by Epstein's counsel during the "higher level review" was that she wrongfully tried to include Jane Doe #2 among the list of Epstein's victims. Now, of

course, AUSA ██████ attempts to protect Jane Doe #2's CVRA rights are being used by Jane Doe #2's counsel to allege violations of the same statute.

Victims could not be notified that the matter had been resolved while Epstein was trying to set the agreement aside. And one of the

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^{F1}The U.S. Attorney's Office also repeatedly reminded Mr. Cassell, a former federal judge and Justice Department official, of the Justice Department's policy not to comment on the guilt or innocence of an unconvicted person. The ABA's Model Rules of Professional Conduct on the Special Responsibilities of a Prosecutor contains similar guidance. For example, there has been no civil or criminal finding by any judge or jury that:

defendant Jeffrey Epstein (a billionaire with significant with significant political connections) sexually abused more than 30 minor girls at his mansion in West Palm Beach (*sic*), Florida, and elsewhere. Epstein performed repeated lewd, lascivious, and sexual acts on them, including (but not limited to) masturbation, touching of their sexual organs, using vibrators or sexual toys on them, coercing them into sexual acts, and digitally penetrating them. Because Epstein used a means of interstate commerce and knowingly traveled in interstate commerce to engage in abuse of Jane Doe #1 and Jane Doe #2 (and the other victims), he committed violations of federal law, including repeated violations of 18 U.S.C. § 2422.

(DE48 at 3-4 ¶ 1.) Jane Does No. 1 and No. 2 had the opportunity to prove these allegations at trial but elected to sign confidential settlement agreements where, presumably, there was no acknowledgement of criminal or civil liability. Respectfully, the U.S. Attorney's Office will leave the final determinations of what, if any, crimes Mr. Epstein committed (other than those to which he pled guilty in Palm Beach County Circuit Court), to any judge and/or jury who are called upon to see and hear the evidence against Mr. Epstein.