UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

UNITED STATES
_____/

JANE DOE NO. 1 AND JANE DOE NO. 2'S POSITION REGARDING ATTENDANCE OF JEFFREY EPSTEIN AT UPCOMING MEDIATION SESSION

COME NOW Jane Doe No. 1 and Jane Doe No. 2 (the "victims"), by and through undersigned counsel, to respond to the Court's inquiry as to whether Jeffrey Epstein should be permitted to attend the upcoming court-ordered mediation session in this case. The victims believe that his presence would not be useful and that he should, accordingly, be excluded.

As the Court is aware, it has directed the parties in this matter to mediation. Under the Court's local rules, mediation is confidential:

> *All proceedings of the mediation shall be confidential* and are privileged in all respects as provided under federal law and Florida Statutes § 44.405. The proceedings may not be reported, recorded, placed into evidence, made known to the Court or jury, or construed for any purpose as an admission against interest. A party is not bound by anything said or done at the conference, unless a written settlement is reached, in which case only the terms of the settlement are binding.

Local Rule 16.2(g) (emphasis added).

In light of the confidential nature of the proceedings, any media who might attend should only be permitted to attend the initial open court session.

With regard to prospective intervenor Epstein, the case has not yet reached any remedy stage where he might have a more direct interest. More important, the issues to be mediated at this stage involve the victims' pending motion for summary judgment (DE 361), which seeks summary judgment only against the Government – not Epstein. The issues to be mediated will be complex enough with the victims and Government raising competing positions without injecting the concerns of a third party. And if the parties are successful in resolving their differences, then Epstein's participation may well never be required. Should the parties reach agreement on a proposed resolution that implicates interests of Epstein and triggers his right to be heard, then there will be time enough after the mediation to attend to his concerns.

Should the Court believe that Epstein must be allowed to participate in the mediation, the victims would raise two additional points. First, the victims and the Government must be allowed to communicate with each other confidentially. If Epstein is able to monitor the discussions in any way, that would make settlement effectively impossible, since the victims are not inclined to discuss their sexual abuse with their abuser listening. Second, as with any other party at a mediation, Epstein must attend personally so that full settlement authority is available. *See* Local Rule 16.2(e) ("Unless excused in writing by the presiding Judge, all parties . . . shall be physically present at the mediation conference (*i.e.,* in person if the party is a natural person . . .) with full authority to negotiate a settlement.").

For all these reasons, the Court should find that Epstein is not permitted to attend the upcoming mediation session. If he is permitted to attend, he should be required to attend in person and should not be able to monitor communications because the victims and the Government.

DATED: April 22, 2016

Respectfully Submitted,

/s/ Bradley J. Edwards
Bradley J. Edwards
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And

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Attorneys for Jane Does No. 1, 2, 3 and 4

[*] This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah

CERTIFICATE OF SERVICE

I certify that the foregoing document was served on April 22, 2016, on the following using the Court's CM/ECF system:

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/s/ Bradley J. Edwards