

During the course of the federal criminal investigation Epstein, Jane Doe No. 2 was represented by attorney, James Eisenberg, Esq., whose services were paid for by Epstein. Ex. S, ¶ 7.

Through her attorney, Jane Doe No. 2 refused to be interviewed by the FBI and U.S. Attorney's Office unless she was granted immunity pursuant to 18 U.S.C. § 6001 *et seq.* Ex. A, Oct. 24, 2006 e-mail from Eisenberg to AUSA ██████████ Ex. S, ¶¶ 6-12. Jane Doe No. 2 was unwilling to provide any information regarding her encounters with Epstein unless she was assured her statements would not be used against her in a criminal prosecution. In accordance with her request, the Government obtained immunity under 18 U.S.C. § 6001 in order to obtain information from Jane Doe No. 2. Ex. B; Ex. S, ¶¶ 6-12.

After being provided with a subpoena, statutory immunity, and an order compelling her to testify, Jane Doe No. 2 appeared on on April 24, 2007, for a videotaped interview conducted by FBI Special Agents E. ██████████ and AUSA Marie ██████████ in the presence of her attorney, James Eisenberg, Esq. Ex. C; Ex. R, ¶ 5; Ex. S, ¶ 12. Jane Doe No. 2 described her meetings with Epstein, and Epstein's offer to pay her \$200 to bring girls to him. Ex. C at 20. When asked whether Epstein "pulled you closer to him in a sexual way," Jane Doe No. 2 replied:

- A. I wish. No, no, never, ever, ever, no, never. Jeffrey is an awesome man, no.

Id. at 22. At the end of her interview, Jane Doe No. 2 was asked if she had any questions for the agents or AUSA ██████████ Id. at 57. Jane Doe No. 2 responded:

- A. No, but I hope – I hope Jeffrey, nothing happens to Jeffrey because he's an awesome man and it would really be a shame. It's a shame that he has to go through this because he's an awesome guy and he didn't do nothing wrong, nothing.

Id. at 58.

Several months after that videotaped interview, Attorney Eisenberg was asked whether AUSA ██████ would contact Jane Doe No. 2 directly and was told that contact had to occur via Mr. Eisenberg. Ex. S, ¶ 14.

On or about August 4, 2006, Jane Doe No. 2 was sent a letter describing her rights under the CVRA, and providing contact information for the prosecutor. Ex. E; Ex. S, ¶ 5. On or about August 11, 2006, Jane Doe No. 1 received a similar letter. Ex. F; Ex. S, ¶ 5. Both letters provided the name of the FBI agent handling the Epstein investigation (██████████), her phone number, the identity of the prosecutor (AUSA ██████), and her phone number. Although Jane Doe No. 1 and Jane Doe No. 2 had been furnished the means to contact the FBI agent and the prosecutor regarding any concerns about the investigation, they never contacted AUSA ██████ Special Agent ██████ seeking to confer about the investigation, potential charges, or a potential resolution of the matter. Ex. S, ¶¶ 5, 13, 31.

Following the entry of the NPA, Epstein challenged the United States Attorney's exercise of his prosecutorial discretion at the Child Exploitation and Obscenity Section (CEOS), within the Criminal Division of the DOJ in Washington, D.C. Ex. G. From January to May 2008, Epstein's attorneys submitted lengthy documents to CEOS attempting to convince senior attorneys at CEOS that Epstein had not committed any federal crimes, reviewing the evidence and case law, advocating the position that Epstein had only violated Florida law, if any crime had even been committed, and suggesting that the Florida state courts were the appropriate forum for adjudicating his criminal responsibility.

Meetings were held between CEOS officials and Epstein's attorneys, in which Epstein sought to have the NPA overturned.

While Epstein and his attorneys engaged in efforts to set aside the NPA, the U.S. Attorney's Office and the FBI proceeded with investigation and preparation for a criminal prosecution in a reasoned exercise of prudence. Ex. S, ¶¶ 34-36; see also Ex. R, ¶ 10. The January 2008 letters from the FBI to Jane Doe No. 1 and Jane Doe No. 2 that referenced the ongoing investigation were not deceptions but a reflection of the still-ongoing federal investigation and the investigative team's view that there might well be a federal prosecution and that at least some of the victims would become prosecution witnesses at trial. Ex. S, ¶¶ 35-36; see also Ex. R, ¶ 10.

On May 15, 2008, the Chief of the CEOS sent Jay Lefkowitz, Esq., a five-page letter, explaining the inquiry it conducted of the federal criminal investigation of Epstein. Ex.H. The letter concluded that "federal prosecution in this case would not be improper or inappropriate."

Epstein next sought further review at the Office of the Deputy Attorney General (DAG), during which Epstein's attorneys submitted additional letter briefs to the DAG and U.S. Attorney's Office submitted response letters. Ex. [REDACTED]. [DEXTER NEEDS TO FILL THIS IN. I DO NOT HAVE THESE LETTERS]

On June 23, 2008, John Roth, Senior Associate Deputy Attorney General wrote to Messrs. Lefkowitz and Starr, advising them that "federal prosecution of this case is appropriate." Ex. I. Mr. Roth also told Epstein's attorneys that their allegations of prosecutorial misconduct had been reviewed, and that the Office of the Deputy Attorney General saw "nothing in the conduct of the U.S. Attorney's Office that gives us any reason to alter our opinion." Id.

When the Government found out on Friday, June 27, 2008, at approximately 4:15 p.m., that Epstein's plea had been scheduled by state officials for 8:30 a.m., Monday, June 30, 2008, AUSA [REDACTED] and the Palm Beach Police Department attempted to provide notice to all the

victims. [REDACTED] Decl. (July 9, 2008), ¶ 11; Ex. S ¶ 38. AUSA [REDACTED] specifically called and informed Brad Edwards, the attorney who at that time was representing both Jane Doe No. 1 and Jane Doe No. 2, of the date and time of Epstein's state court plea hearing. Ex. S ¶ 38. Attorney Edwards informed AUSA [REDACTED] that someone would be present for him at the hearing. Id.

In January 2008, when the letters were sent by the FBI, Epstein's attorneys were actively engaged in attempts to convince higher levels of the DOJ that there was no basis for a federal prosecution of Epstein and that the U.S. Attorney's Office had abused its prosecutorial discretion in negotiating the NPA. The NPA itself was attacked on a number of grounds, including the provision for compensation of Epstein's victims. Ex. K, Nov. 28, 2007 Ltr. from Kenneth W. Starr to Assistant Att'y Gen. Alice S. Fisher.

The Government had continued its investigation because prudence dictated that the Government continue its investigation and preparations to be ready to move forward with a criminal prosecution of Epstein. See Section IV, supra, at 10-12; Ex. R, ¶ 10; Ex. S, ¶¶ 34-36.

After the NPA was signed in September 2007, four victims were contacted and the NPA's provision for a federal restitution remedy was discussed. D.E. 14, ¶ 8. **details from [REDACTED] Decl. *** When Epstein's attorneys learned of this, they complained that the Government was incentivizing the victims to overstate their involvement with Epstein in order to increase their damage claims. Id. Moreover, Epstein's attorneys were expected to mount vigorous impeachment of the victims at any trial; indeed, Epstein's attorneys previewed their efforts preparing to impeach the victims, Ex. L at 9-12, and ****. AUSA [REDACTED] and the FBI agents concluded that informing additional victims could compromise both the witnesses'

credibility and the agents' credibility at a later trial if Epstein reneged on the agreement. Id.; Ex. R, ¶ 9; Ex. S, ¶ 34. The Government, in an effort to avoid creating additional impeachment material by not alerting the victims that the Government was seeking a resolution that would facilitate their collecting money damages from Epstein, see Ex. R, ¶ 9; Ex. S, ¶¶ 21, 34-35, thus delayed further notifying victims about the NPA until after Epstein entered his plea for legitimate prosecutorial reasons.

During the course of its investigation, the Government learned that many of Epstein's victims were troubled by the existence of the Government's criminal investigation and a majority expressed concern that their identities and their involvement with Epstein might be made public. Ex. R, ¶ 12. Many were emotionally distressed because of the investigation and these concerns. Id. Some were reluctant to talk to the Government, and some refused to talk to the Government. Id. At the same time, during the interviews that were conducted with victims from 2006 to 2008, none expressed a strong view that Epstein be prosecuted. Id. ¶ 13. Some, like Jane Doe No. 2, even expressed the view that nothing should be done to Epstein, provided accounts that Epstein had done nothing wrong, and/or maintained that Epstein had committed no crime. See, e.g., Ex. C; Ex. R, ¶ 5; Ex. S, ¶¶ 10, 12, 19, 24-26, 31.

Informed by these circumstances and the strengths and weaknesses of the case against Epstein, the U.S. Attorney's Office sought to resolve the matter in its prosecutorial discretion in a manner that obtained a guaranteed sentence of incarceration for Epstein, that did not subject victims to the scrutiny and travails associated with a trial, that provided victims with the equivalent of uncontested restitution from Epstein, and that guaranteed the sexual offender registration of Epstein, which would help protect other minors throughout the country in the

future. Ex. S, ¶ 18. While the U.S. Attorney's Office did not provide victims with advance notice of the negotiated resolution, it did so to ensure that additional impeachment evidence would not be created to which the victims, prosecutor, and agents would be subjected to the detriment of a future prosecution of Epstein in the event the negotiated resolution of the investigation were not perfected. Ex. R, ¶ 9; Ex. S, ¶ 21.