

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

JANE DOE NO.2,

Plaintiff,

CASE NO.; 08-CV-80119-MARRA/JOHNSON

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO.3,

CASE NO.; 08-CV-80232-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO.4,

CASE NO.; 08-CV-80380-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 5,

CASE NO.; 08-CV-80381-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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JANE DOE NO. 6,

Plaintiff,

CASE NO.; 08-CV-80994-MARRA/JOHNSON

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

JANE DOE NO. 7,

CASE NO.; 08-CV-80993-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

C.M.A.,

CASE NO.; 08-CV-80811-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

JANE DOE,

CASE NO.; 08-CV-80893-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN, et al.,

Defendants.

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DOE II,

Plaintiff,

CASE NO.; 08-CV-80469-MARRA/JOHNSON

vs.

JEFFREY EPSTEIN, et al,

Defendants.

JANE DOE NO. 101,

CASE NO.; 08-CV-80591-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 102,

CASE NO.; 08-CV-80656-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

**Defendant, Jeffrey Epstein's Motion To Strike Cases From Current Trial Docket
And Motion to Continue Case And/Or Alternative Motion to Modify Trial and
Scheduling Order Deadlines**

Defendant, JEFFREY EPSTEIN, (hereinafter "EPSTEIN") by and through his undersigned attorneys, hereby moves this Court for the entry of an order Striking These Cases (i.e., C.M.A., Jane Doe (80893) and Jane Does 2-7) From The Current Trial Docket(s), Continuing The Trials And Setting Them On New Trial Dockets At Least

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Three Months After The Current Trial Dates As Set Or, Alternatively, Modifying The Current Trial Schedule To Allow For An Additional 3 Months From Current Dates Within Which To Complete Discovery, An Additional 2 Months From The Current Dates Within Which To Complete All Substantive Pretrial Motions and Expert Discovery, An Additional Month From The Current Dates Within Which To Mediate the Matters and An Additional Month to Complete the Remaining Scheduling Deadlines under this Court's Trial Orders. In support, EPSTEIN states:

I. **Procedural Background and Argument,
With Incorporated Memorandum of Law¹**

1. C.M.A. was filed on February 23, 2008. C.M.A. filed her First Amended Complaint on February 10, 2009. (C.M.A. DE 39-40). Epstein's Motion to Dismiss same was filed on March 12, 2009. (C.M.A. DE 47). The Motion to Dismiss remains outstanding.

2. Jane Doe (80893) was filed on August 13, 2008. On April 17, 2009, Jane Doe filed her First Amended Complaint.

3. The Jane Doe 2-7 cases were filed between February 6, 2008 and September 10, 2008. Jane Does 2-7 filed their Second Amended Complaints on February 2009.

4. Pursuant to the court's Orders Setting Trial And Discovery Deadlines, Referring Case To Mediator And Referring Discovery Motions To U.S. Magistrate Judge (the

¹ In an effort not to repeat certain legal arguments set out in various Motions and Replies referenced below and identified herein by Docket Number, those motions and replies, with legal arguments, are specifically incorporated herein by reference.

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"Trial Orders"), these matters are currently set on this court's Trial Dockets commencing January 25, 2010, February 8, 2010 and February 22, 2010.

5. Pursuant to the Trial Orders, discovery cutoff is August 2009 for C.M.A. and Jane Does 2-5, and October 2009 for Jane Doe and Jane Does 6-7. Substantive pretrial motions must be completed in August 2009 for C.M.A. and Jane Does 2-5, and October 2009 for Jane Doe and Jane Does 6-7. Mediation must be completed on November 2009 for Jane Does 2-5, and December 2009 for C.M.A., Jane Doe and Jane Does 6-7. Finally, Expert discovery must be completed on June 29, 2009 for C.M.A.

6. As to C.M.A., Jane Doe and Jane Does 2-7, each has objected to relevant discovery. C.M.A. has even refused to produce certain information that she agreed to produce in discovery. The foregoing delay tactics has prevented Epstein from conducting meaningful discovery in order to defend these matters and prepare for trial. At this juncture, Plaintiffs wish for Epstein to try this case without any discovery whatsoever. See infra.

7. For example, in a diligent effort to obtain discovery, Epstein filed substantive motions addressing C.M.A.'s objections to discovery, and those motions remain outstanding.² See (C.M.A. - DE 54 – Motion to Compel Responses to First Request to Produce and First Set of Interrogatories and DE 70 – Epstein's Reply to Plaintiff's Opposition Motion thereto). Epstein's Motion to Compel (C.M.A. DE 54) and Reply

² The same discovery requests were served upon Jane Doe and Jane Does 2-7. Substantive Motions to Compel seeking production of similar information in those cases were filed and remain outstanding. See Jane Doe DE 27 & 28 and Jane Doe 2-7 (specifically, Jane Doe 2 – DE 67-68, Jane Doe 3 – DE 59-60, Jane Doe 4 - DE 74-75, Jane Doe 5 – DE 69-70, Jane Doe 6 - DE 24-25, and Jane Doe 7 – DE 26-27). Those Motions are incorporated herein by reference.

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(C.M.A. DE 70) are incorporated herein by reference. The Motion and the Reply seek basic and elementary discovery. For instance, the Motion and the Reply seek:

- a. individual and/or joint income tax returns and supporting documentation including W-2 and 1099 forms for 2002-2007 and, as well as all records or documentation relative to the Plaintiff's earnings for the current year;
- b. All bills/expenses from any medical doctor, chiropractor, psychologists, psychiatrists, mental health counselors (including any members of the healing arts and related fields, i.e. drugs, prescriptions, etc.) you claim you incurred as a result of the injuries which are or may be the subject matter of this lawsuit;
- c. All medical reports and/or records from doctors, physicians, (including psychologists, psychiatrists, mental health counselors), hospitals, drug or alcohol facilities or any other person or entity who has rendered treatment to or examined you for any reason after the incident(s) which is the subject matter of this lawsuit;
- d. the names, business addresses, telephone and cell phone numbers, dates of employment, immediate supervisor (name and address) and rates of pay regarding all employers, including self-employment, for whom you have worked in the past 10 years; this includes listing all sources of income you have received. Answer this question by year, i.e. 1998 – 2009; and
- e. the names, addresses and phone numbers of all males, excluding Mr. Epstein, with whom you have had sexual activity since age 10 (by year) up through your current age. Describe the nature of sexual activity, the date(s) and whether you received money or other consideration from the person.

(DE 54 & 70)

8. C.M.A. objected to producing the tax information requested in 4(a) above, which will show where C.M.A. worked, and she also speciously objected to the companion interrogatory (4(d) above) wherein she refuses to identify where she worked for the requested time period. Epstein needs the requested information so his attorneys can

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conduct the appropriate discovery on C.M.A.'s supervisors and co-workers (and others that may be identified during those depositions) in connection with the allegations C.M.A. has made against Epstein in her 89-page Amended Complaint. By virtue of C.M.A. and the other Plaintiffs concealing the above information, Epstein has been prevented from conducting any meaningful discovery, including the taking of any depositions of C.M.A.'s supervisors, co-workers, acquaintances, friends and other third parties.

9. As stated above, Jane Doe and Jane Does 2-7 made similar objections which are the subject of various Motions to Compel. Epstein needs this information to defend the Plaintiffs' allegations and to prepare for trial.

10. Next, C.M.A. concedes in her Opposition Motion to Discovery (DE 62) that Epstein is entitled to the information set out in 4(b) & (c) above; however, C.M.A. refuses to produce the information and/or allow the undersigned to list C.M.A.'s full name, date of birth and last four digits of her social security number in any third-party subpoenas in order to obtain those records.³ While this case was filed by C.M.A. on February 23, 2008, Epstein has been prevented from deposing any of the individuals that treated Plaintiff at one time or another.⁴ This results directly from C.M.A.'s tactics to delay and prevent meaningful discovery in hopes that C.M.A. will be able to prevent Epstein from putting on any evidence in defense of his case. The remaining Plaintiffs

³ Attorney, Brad Edwards, in case number 08-CIV-080893, agreed to such a procedure. Counsel for Jane Does 2-7, Stuart Mermelstein, refuses to agree to such a procedure and, therefore, continues to substantially delay discovery. Note, many of the Plaintiffs are witnesses in the related cases. Therefore, Plaintiffs' discovery delays negatively effect the progress and trial preparation of each case.

⁴ This same argument applies to Jane does 2-7.

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have the same exact goal. Epstein cannot defend this matter with the element of unfair and prejudicial "surprise" is ever so present. Schearbrook Land and Livestock Company v. U.S. et. al, 124 F.R.D. 221 (M.D. Fla. 1988).

11. In an effort to move these cases forward and obtain meaningful discovery, Epstein filed his Motion to Compel and Motion to Compel and/or Identify CMA (and Jane Does 2-7) in the Style of this Case and Motion to Identify Them in Third-Party Subpoenas ("Motions to Identify"). The Motions to Identify are incorporated herein by reference and, for the court's edification, same remain outstanding. Should this Court grant the Motions to Identify, Epstein will be able to obtain discovery he does not currently have in his possession and will be able to take certain depositions of individuals that have yet to be identified.⁵ Based upon the court's consolidation order, the motion to identify equally applies to C.M.A. and the other Plaintiffs.

12. Plaintiffs must be identified in other third-party subpoenas (unrelated to those discussed above concerning medical treatment) in order for Epstein to conduct meaningful discovery. Epstein's right to conduct discovery and confront the witnesses has, up through today's date, been unreasonably and unduly restricted as a result of Plaintiffs' delay tactics.

13. Finally, the information sought in number 4(e) above has not been produced by C.M.A. or the remaining Plaintiffs, despite the case law favoring production. United

⁵ In a state court matter filed against Epstein, E.W. v. Epstein, Case No.: 50-2008-CA-028058 XXXXMB AD, the undersigned learned through discovery that the Plaintiff in that case worked at Platinum Gold, Curves Cabaret, Platinum Showgirls, Cheetah, Diamond Dolls, Vegas Cabaret, Spearmint Rhino, T's Lounge, Pure Platinum, Solid Gold, and The Body Shop. Substantial discovery will take place in that matter of E.W.'s co-workers, supervisors and others that may have information regarding the claims she asserted against Epstein. Epstein should be afforded that same right in the instant matters.

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States v. Bear Stops, 997 F.2d 451 (8th Cir. 1993); Balas v. Ruzzo, 703 So.2d 1076 (Fla. 5th DCA 1997), rev. denied, 719 So.2d 286 (Fla. 1998). The information sought in 4(e) is relevant and discoverable even if not admissible at trial. See Motion to Compel and Reply (C.M.A. DE 54 & 70). Once Plaintiffs are required to fully answer the interrogatories, the answers may yield (at a later deposition or through paper discovery): (a) the names of individuals that may have information about Plaintiffs that negate the allegations in their Complaints, (b) how certain acts alleged in their Complaints materially affected their relationships with others or how those acts did not have such an affect on those relationships, and (3) whether Plaintiffs suffered from disorders (e.g., C.M.A.'s claims of bi-polar disorder and manic depression) as a result of other sexual acts prior to the acts alleged in the Complaints. Here, evidence of Plaintiffs' sexual activity with others may show that those sexual activities (which could include assaults once delineated) produced the behaviors that, for instance, C.M.A. attributes to Epstein (e.g., bi-polar and manic depression disorders). Accordingly, answers to the above discovery requests go the heart of Plaintiffs' damages or lack thereof.

14. Further, pursuant to this Courts Order (C.M.A. DE 68 and in the related matters), Epstein is permitted only to take the Plaintiffs' depositions one time, both as a witness in the other related matters and as a plaintiff in their particular matters. As a result, the discovery schedule coupled with Plaintiffs' delay tactics and the Order (DE 68) is forcing Epstein to take each of the Plaintiffs' depositions without the benefit of other discovery and depositions of individuals that may have knowledge of the claims asserted by Plaintiffs. As such, in the event Plaintiffs produce information after their depositions,

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this Court's order (DE 68) and the Federal Rules effectively prevent Epstein from taking Plaintiffs' depositions a second time. This is inherently unfair and prejudicial to Epstein.

a. Memorandum of Law

15. Modifying a trial order and the deadlines/schedules thereunder is within the sound discretion of this court. Under the circumstances outlined above, failure to strike these cases from the current docket, continue the trials, and/or to modify the court's scheduling order will prejudice Epstein. Epstein has diligently attempted to comply with the Court's scheduling order but has effectively been prevented from doing so in light of the Plaintiffs' delay tactics during discovery. See supra; Fed.R.Civ.Pro. 16(b)(4); Altadis USA, Inc. v. NPR, Inc., 2004 WL 444533 (M.D. Fla.) (granting motion to extend discovery and continue trial).

16. Epstein has shown good cause to obtain a continuance of the trial of this matter and, as well, has shown good cause in order for this court to modify the scheduling order. Fed.R.Civ.Pro. 16(b)(4) ("A [scheduling order] may be modified only for good cause and with the judge's consent."). Epstein's counsel has complied with Local Rule 7.6 of the U.S. Southern District by executing and providing the attached Affidavit. **Exhibit "A"**. Epstein cannot, despite his diligence, timely complete discovery by the times outlined in the current scheduling order as a result of the Plaintiffs' delay tactics. Thus, as outlined above, failure to strike these cases from the docket, continue this case to the next available docket and to extend the discovery schedule and remaining deadlines will prejudice Epstein. Epstein has simply not been given the opportunity to obtain and/or conduct any meaningful discovery, which violates Epstein's constitutional

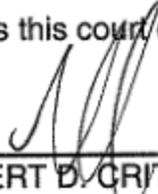
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due process right to defend himself and to seek the production of information that will assist in his defense of the allegations in respective complaints. Plaintiffs cannot reasonably expect Epstein to try these matters with having only been afforded the opportunity to take the deposition of one Plaintiff and not conduct any meaningful discovery on others.

WHEREFORE, Epstein, through his counsel, requests that this court enter and Order:

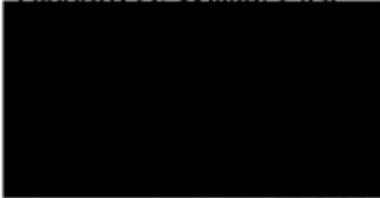
- a. striking these cases from the current trial docket;
- b. continuing the trials of these matters and setting same on new trial dockets at least three months after the current trial dates; or, alternatively,
- c. modifying the current trial schedule to allow for an additional 3 months from the currently set date within which to complete discovery, an additional 2 months from the currently set date within which to complete all substantive pretrial motions, an additional month from the currently set date within which to mediate this matter; and an additional month to complete the remaining deadlines under each of the Court's Trial Orders; and
- d. for such other and further relief as this court deems just and proper.

By: 
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Florida Bar #617296

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the following Service List in the manner specified by CM/ECF on this 19 day of May, 2009

Richard Horace Willits, Esq.
Richard H. Willits, P.A.



Counsel for Plaintiff C.M.A.



Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.



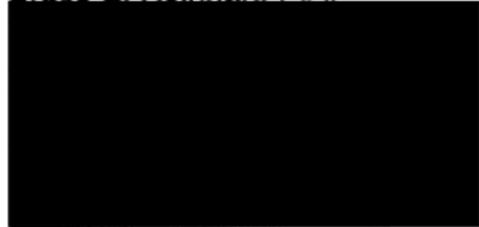
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Jack P. Hill, Esq.
Searcy Denney Scarola Barnhart &
ShIPLEY, P.A.



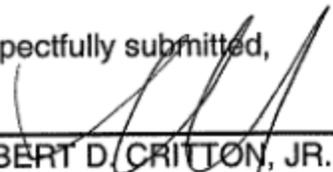
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Respectfully submitted,

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