

Brad Edwards

AND ASSOCIATES

July 3, 2008

[REDACTED]
United States Attorney's Office
500 South Australian Avenue
[REDACTED]

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7007 2680 0002 5519 8503

Dear [REDACTED]

As you are aware, we represent several of the young girls that were victimized and abused by Jeffrey Epstein. While we are aware of his recent guilty plea and conviction in his State Court case, the sentence imposed in that case is grossly inadequate for a sexual predator of this magnitude. The information and evidence that has come to our attention in this matter leads to a grave concern that justice will not be served in this cause if Mr. Epstein is not aggressively prosecuted and appropriately punished. Based on our investigation and knowledge of this case, it is apparent that he has sexually abused more than 100 underage girls, and the evidence against him is overwhelmingly strong.

As former Assistant State Attorneys with seven years' prosecution experience, we believe that the evidence against Mr. Epstein is both credible and deep and that he may be the most dangerous sexual predator of children that our country has ever seen. The evidence suggests that for at least 4 years he was sexually abusing as many as three to four girls a day. It is inevitable that if he is not confined to prison, he will continue to manipulate and sexually abuse children and destroy more lives. He is a sexual addict that focused all of his free time on sexually abusing children, and he uses his extraordinary wealth and power to lure in poor, underprivileged little girls and then also uses his wealth to shield himself from prosecution and liability. We are very concerned for the health and welfare of the girls he has already victimized, and concerned that if justice is not properly served now and he is not imprisoned for a very long time, he will get a free pass to sexually abuse children in the future. Future abuse and victimization is obvious to anyone who really reviews the evidence in this case, and future sexual abuse of minors is inevitable unless he is prosecuted, tried and appropriately sentenced. Money and power should not allow a man to make his own laws, and he has clearly received preferential treatment at every step up to this point. If he were a man of average wealth or the abused girls were from middle or upper class families, then this man would spend the rest of his life in prison. In a country of true, blind justice, those distinctions are irrelevant, and we really hope he does not prove the point that a man can commit heinous crimes against children and buy his way out of it.

If the Department of Justice's recent commitment to the protection of our children from child molesters is to be more than rhetoric, then this is the time and the case where the Department must step forward. We urge the Attorney General and our United States

[REDACTED]
United States Attorney's Office
Page Two

Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual perpetrator. We will help you to do this in any way possible to ensure that true Justice is served in this case.

Sincerely,



Brad Edwards, Esquire
Jay Howell, Esquire

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: 954-414-8033/305-935-2011
FAX: 954-924-1530/305-935-4227
BE@BRADEDWARDSLAW.COM

EFTA00233330

Brad Edwards

AND ASSOCIATES

October 15, 2008

[REDACTED]
United States Attorney's Office
99 N.E. 4th Street
Miami, Florida 33132

Re: Jane Doe # and Jane Doe #2 [REDACTED], United States of America
Case No.: 08-80736-CIV-MARRA/JOHNSON

Dear Mr. [REDACTED]

I am writing to inquire about whether Mr. Epstein has violated his Non-Prosecution Agreement with the Government.

As you know, the Government has repeatedly described the Non-Prosecution Agreement as guaranteeing to the victims of Epstein's sexual abuse at least \$150,000 in civil damages. The Government has made these representations in reliance on a current provision in the U.S. Code – 18 U.S.C. § 2255(a) – which provides for an automatic amount of damages of at least \$150,000. At the time that the Non-Prosecution Agreement was drafted and signed, that was the law that was in effect.

In Epstein's latest filing in federal court, however, he takes the position that the pre-2006 Amendments version of the law applies. *See* Defendant Epstein's Motion to Dismiss, for More Definite Statement and To Strike Directed to Plaintiff Jane Doe's Complaint at 9, *Jane Doe v. Jeffrey Epstein*, No. 08-CIV-80893-Marra/Johnson (discussing § 2255 and stating that the "applicable version of the statute" is "pre-2006 Amendments"). The 2006 Amendments altered § 2255(a), by increasing the presumed minimum damages from \$50,000 to \$150,000. *See* Pub. L. 109-248, Title VII, § 707(b), (c), July 27, 2006, 120 Stat. 650.

In light of Epstein's latest filing, I write to ask several questions:

- (1) Would you stipulate that you told me several times that Epstein had agreed to pay at least \$150,000 to the identified victims of his abuse?
- (2) Did Epstein in fact agree to pay damages to the identified victims of his abuse at least \$150,000?
- (3) Did the Government tell victims, either directly or through counsel, that Epstein had agreed to pay his victims at least \$150,000?

Frisker Cor.

[REDACTED]

Sent: Thursday, June 19, 2008 4:45 PM
To: [REDACTED]
Cc: Atkinson, Karen (USAFES)
Subject: Epstein Case

Dear [REDACTED]

I just wanted to let you know that Karen and I spoke with Roy Black yesterday regarding the Epstein case. Roy asked whether there was a way to resolve the federal and state litigation simultaneously and mentioned your desire to wrap up the case before you retired. We informed him that the Office's position is that if Epstein promptly abides by the terms of the signed non-prosecution agreement entered into by the Office and Mr. Epstein, we will end our investigation. If Mr. Epstein chooses to go forward with a different plea in the State, that is his prerogative, but we will consider it a breach of the federal non-prosecution agreement and will proceed accordingly.

The federal non-prosecution agreement signed by Mr. Epstein and his counsel requires Mr. Epstein to plead guilty to the current state indictment and also to an information charging a state offense that requires sex offender registration, specifically the charge of procuring minors to engage in prostitution, at least 18 months imprisonment, and an agreement that the victims can pursue damages claims as though Mr. Epstein had been convicted of the federal offenses. Our agreement does not address probationary periods following the term of incarceration. Those are statutorily set on the federal side, so we have left that issue to the defense to negotiate with you.

If you have any questions, please let me know.

[REDACTED]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[REDACTED]

- ① update agreement
- ②

Barry told us he could do it in one day

Tracking:

Recipient



Read

Read: 6/19/2008 4:48 PM

Read: 6/19/2008 4:47 PM

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

September 2, 2009

CASE NO.: 4D09-2554
L.T. No. : 20098CF009381A

JEFFREY EPSTEIN

STATE OF FLORIDA, ET AL.

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that appellee E.W.'s motion filed July 13, 2009, to file portion of response under seal is hereby determined to be moot; further,

ORDERED that appellant's agreed motion filed July 14, 2009, to file one reply supporting petition for writ of certiorari and for the time to run from service of the last-filed response is hereby granted; further,

ORDERED that appellee B.B.'s motion filed August 5, 2009, to supplement the record is hereby granted; further,

ORDERED that appellee E.W.'s motion filed July 27, 2009, for attorney's fees and costs is hereby denied; further,

ORDERED that appellee B.B.'s motion filed July 23, 2009, for attorneys' fees and costs is hereby denied; further,

ORDERED that appellee Palm Beach Newspapers, Inc. d/b/a *The Palm Beach Post's* motion filed July 21, 2009, for attorneys' fees and costs is hereby denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Barbara J. Compiani
Robert D. Critton, Jr.
William J. Berger
State Attorney-P.B.
Michael J. Pike
Jeffrey H. Sloman

Jane Kreuzler-Walsh
Deanna K. Shullman
U.S. Attorney'S Office
Bradley J. Edwards
James B. Lake
Hon. Jeffrey J. Colbath

Jack A. Goldberger
Diana Martin
Spencer T. Kuvin
Rebecca Mercier Vargas
R. Alexander Acosta

lc

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

JEFFREY EPSTEIN,
Appellant,

**STATE OF FLORIDA, E.W. B.B. and
PALM BEACH NEWSPAPERS, INC., d/b/a THE PALM BEACH POST,**
Appellees.

No. 4D09-2554

[September 2, 2009]

PER CURIAM.

We treat petitioner's petition for writ of certiorari as a full appeal and affirm.

HAZOURI, DAMOORGIAN and LEVINE, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Jeffrey J. Colbath, Judge; L.T. Case Nos. 502006CF009454AXXMB & 502008CF009381AXXMB.

Jane Kreuzler-Walsh and Barbara J. Compiani of Kreuzler-Walsh, Compiani & Vargas, P.A., Robert D. Critton of Burman, Critton, Luttier & Coleman, and Jack A. Goldberger of Atterbury, Goldberger & Weiss, P.A., West Palm Beach, for appellant.

James B. Lake and Deanna K. Shullman of Thomas, LoCicero & Bralow, PL, Fort Lauderdale, for appellee Palm Beach Newspapers, Inc., d/b/a The Palm Beach Post.

William J. Berger of Rothstein Rosenfeldt Adler, Fort Lauderdale, for appellee E.W.

Diana L. Martin and Spencer T. Kuvin of Leopold-Kuvin, P.A., Palm Beach Gardens, for appellee B.B.

Not final until disposition of timely filed motion for rehearing.

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



Appeals court backs unsealing of Epstein's '07 deal with feds

By SUSAN SPENCER-WENDEL
Palm Beach Post Staff Writer

WEST PALM BEACH — An appeals court has affirmed a lower court ruling unsealing the confidential deal Jeffrey Epstein struck with federal prosecutors to avoid being charged by them.

The 4th District Court of Appeal this week upheld Circuit Judge Jeffrey Colbath's earlier decision to unseal the agreement.

Attorneys for the mon-

ey manager of billionaires have fought vigorously against the agreement's release. They have 15 days to request a rehearing with the 4th District Court of Appeal.

Absent that, it will become public.

Epstein's local criminal defense attorney Jack Goldberger did not return a call seeking comment.

Epstein's own attorneys, in federal filings, have

See EPSTEIN, 6B ▶



Epstein
Attorneys for the Palm Beach money manager have 15 days to seek a rehearing.

Civil litigation intensifies; deposition ends abruptly

▶ EPSTEIN from 1B

referred to his confidential deferred prosecution agreement with the U.S. Attorney's Office, struck in September 2007, as "unprecedented" and "highly unusual."

Attorneys for *The Palm Beach Post* as well as alleged victims of Epstein's sexual advances sought to have the deal unsealed in state court.

Colbath found that the proper sealing procedures had not been followed by an earlier judge.

"There is nothing more fundamentally important than for the public and press to observe how the government is doing its job," *Post* attorney Deanna Shullman has said. "There is great public interest in how everybody in this case is doing their job."

According to various media accounts, Epstein moved in circles that included President Clinton,

An attorney's questioning of Epstein becomes personal.

Donald Trump and Prince Andrew. "International Moneyman of Mystery," declared a 2002 *New York* magazine profile of Epstein.

He pleaded guilty in 2008 to procuring teens for prostitution and was sentenced to 18 months in jail, but allowed out extensively for work release. Epstein was released in late July, after serving 13 months of the sentence.

He now faces civil lawsuits filed by young women allegedly lured to his Palm Beach home and paid to perform massages and other acts.

That civil litigation is intensifying.

This week, while Epstein was being deposed by attorney Spencer Kuvin,

who represents an alleged victim identified only as "B.B.," Kuvin questioned Epstein about the shape of his genitalia and the deposition abruptly ended, according to a transcript.

Kuvin has since made a motion in court to be able to inspect Epstein's genitalia.

Kuvin said Thursday he seeks to corroborate a description one woman gave Palm Beach police.

Because Epstein is invoking his right to remain silent in depositions, this is the only way to do it, Kuvin said.

"We want to corroborate what those girls saw," Kuvin said.

© susan_spencer_wendel@pbpost.com

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO. 2008CF009381A

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.

AGREED ORDER

This cause came on to be heard upon the agreement of the parties, Jack Goldberger representing Jeffrey Epstein and [REDACTED] representing the State of Florida, and the Court being fully advised that the parties have reviewed both the plea agreement and the transcript of the plea conference in the Defendants case and have confirmed that the requirement of "mandatory public service" as a special condition of community control checked off on the Order Placing the Defendant on Community Control was due to a clerical error. Accordingly, it is hereby ordered and adjudged that the special condition of "mandatory public service" is deleted.

The Court being further advised that the Order Placing the Defendant on Community Control did not address the Defendant's travel outside the State of Florida for work or business purposes and the parties desire to clarify that omission, it is hereby ordered and adjudged that the Defendant is authorized to travel outside the State of Florida for business and work purposes if allowed by his community control officer. At least 48 hours before the need to travel outside the State of Florida for work purposes the Defendant shall first obtain the permission of his community control officer and then follow any instructions or

requirements imposed on him by his community control officer.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida on this
_____ day of September, 2009.

JEFFREY COLBATH
Circuit Court Judge

Copies:

Jack A. Goldberger, Esquire

██████████, ASA
██████████, Department of Corrections

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA
CRIMINAL DIVISION "W"

CASE NO. 502008CF009381AXXMB
502006CF009454AXXMB

STATE OF FLORIDA,

vs.

JEFFREY EPSTEIN,
Defendant

ORDER RELEASING DOCUMENTS UNDER SEAL

THIS MATTER came before the Court as a result of the Fourth District Court of Appeal's per curiam affirmance of the trial court's order, wherefore it is

ORDERED AND ADJUDGED that the documents referred to as

A. "Non-Prosecution Agreement" filed under seal in the court file on July 2, 2008,

B. "The Addendum to the Non-Prosecution Agreement" filed under seal in the court

filed on August 25, 2008,

shall be released.

The Court notes that neither the Agreement nor the Addendum contain the names of any alleged juvenile victims. These documents will be released contemporaneously with this order.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this

18 day of September, 2009.


JEFFREY J. COLBATH
Circuit Court Judge

Copies furnished:

R. Alexander Acosta, U.S. Attorney's Office - Southern District
500 South Australian Avenue, Suite 400
West Palm Beach, FL 33401

EFTA00233342

[REDACTED], State Attorney's Office
[REDACTED]
WEST Palm Beach, FL

William J. Berger, Esq.
Bradley J. Edwards, Esq.
Rothstein Rosenfeldt Adler
[REDACTED] Suite 1650

Robert D. Critton, Esq.
Burman, Critton, Luttier & Coleman
[REDACTED]

Jack A. Goldberger, Esq.
Atterbury, Goldberger & Weiss, P.A.
[REDACTED]

Spencer T. Kuvin, Esq.
Leopold-Kuvin, P.A.
[REDACTED]

Deanna K. Shulman, Esq.
[REDACTED]

JUN-30-2008(MON) 10:06

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

- (1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;
- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495A XXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and
 - (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.
3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.
4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.
5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.
6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.
8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.
10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.
11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

- 12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.
- 13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against Epstein, including but not limited to [REDACTED]

[REDACTED] Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

JUN-30-2008(MON) 10:06

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

///

///

///

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

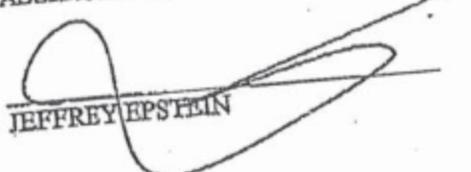
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

ASSISTANT U.S. ATTORNEY

Dated: 8/24/07


JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

JUN-30-2008(MON) 10:07

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

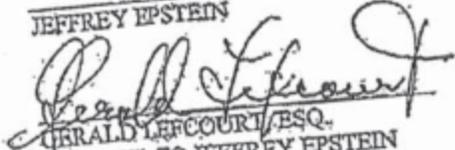
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

Dated: _____

Dated: 9/24/07

JEFFREY EPSTEIN

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

JUN-30-2008(MON) 10:07

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

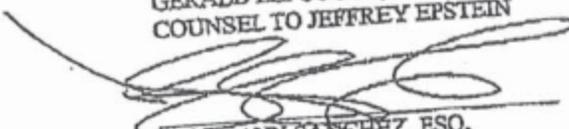
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEP COURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07


LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:

INVESTIGATION OF

JEFFREY EPSTEIN

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

- 7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.
- 7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, *infra*.
- 7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

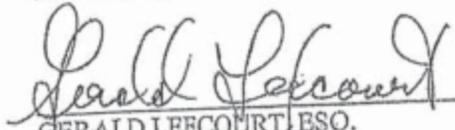
Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

Dated: 10/29/07


GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

Epstein's secret pact with feds reveals 'highly unusual' terms



Epstein
Faces many civil lawsuits filed by some of the 30 to 40 women identified as victims in the federal investigation.

By SUSAN SPENCER-WENDEL
Palm Beach Post Staff Writer

WEST PALM BEACH — A secret non-prosecution agreement multimillionaire financier Jeffrey Epstein struck with federal prosecutors is being called "highly unusual" by former federal prosecutors and downright outrageous by attorneys now representing young women who serviced him.

The deal reveals that the FBI and the U.S. Attorney's Office investigated him for several federal crimes, including engaging minors in commercial sex. The crimes are punishable by anywhere from 10 years to life in prison.

But federal prosecutors backed down and agreed to recall grand jury subpoenas if Epstein pleaded guilty to prostitution-related felonies in state court, which he ultimately did. He received an 18-month jail sentence, of which he served 13 months.

See EPSTEIN, 12A ▶

Tension between prosecutors, police

► EPSTEIN from LA

The U.S. Attorney's Office also agreed not to charge any of Epstein's possible co-conspirators:

The deal was negotiated in part by heavyweight New York criminal defense attorney Gerald Lefcourt.

Unsealed on Friday after attorneys for some of Epstein's victims and *The Palm Beach Post* sought its release, it offers the first public look at the deal Epstein's high-powered legal counsel brokered on his behalf.

Mark Johnson of Stuart, a former federal prosecutor, described the disparity in potential sentences as unusual, but even more so a provision on attorney payment.

The first draft of the agreement in September 2007 required that Epstein pay an attorney — tapped by the U.S. Attorney's Office and approved by Epstein — to represent some of the victims. That attorney is prominent Miami lawyer Bob Josefsberg.

But an addendum to the agreement signed the following month struck Epstein's duty to pay Josefsberg if he and the victims did not accept settlements — capped at \$150,000 — and instead pursued lawsuits.

Johnson said it appears the government was trying to balance the lesser sentence for Epstein with recovering \$150,000 for each victim. "I've never, ever seen anything like that in my life," he said. "It's highly unusual."

The deal does not say whether any victims were contacted or consulted before the deal was made.

Attorney Brad Edwards of Fort Lauderdale, who represents three of the young women, believes that none of the 30 to 40 women identified as victims in the federal inves-

tigation were told ahead of time. Edwards said his clients received letters from the U.S. Attorney's Office months after the deal was signed, assuring them Epstein would be prosecuted.

"Never consulting the victims is probably the most outrageous aspect of it," Edwards said. "It taught them that someone with money can buy his way out of anything. It's outrageous and embarrassing for United States Attorney's Office and the State Attorney's Office."

Epstein now faces many civil lawsuits filed by the women, who are represented by a variety of attorneys. In many, the allegations are the same: that Epstein had a predilection for teenage girls, identified poor, vulnerable ones and used other young women to lure them to his Palm Beach mansion. They walked away with between \$200 and \$1,000.

Former Circuit Judge Bill Berger, also representing victims, called the agreement a "sweetheart deal."

"Why was it so important for the government

to make this deal?" Berger asked rhetorically. "We have not yet had an honest explanation by any public official as to why it was made ... and why the victims were sold down the river."

Former federal prosecutor Ryon McCabe described the agreement as "very unorthodox." Such agreements, he said, are usually reserved for corporations, not individuals.

"It's very, very rare. I've never seen or heard of the procedure that was set up here," said McCabe, who has no involvement in any Epstein litigation.

"He's essentially avoiding federal prosecution because he can afford to pay that many lawyers to help those victims review their cases. ... If a person has no money, he couldn't be able to strike a deal like this and avoid federal prosecution."

The backroom deal with federal prosecutors is all the more interesting in light of the legal powerhouses who have worked for Epstein, including Harvard professor Alan Dershowitz and Bill Clinton investigator Kenneth

Starr. Lefcourt is a past president of the National Association of Criminal Defense Lawyers.

Epstein's local defense attorney, Jack Goldberger, issued a statement Friday saying he had fought the release of the sealed agreement to protect the third parties named there. "Mr. Epstein has fully abided by all of its terms and conditions. He is looking forward to putting this difficult period in his life behind him. He is continuing his long-standing history of science philanthropy."

The investigation triggered tensions between police and prosecutors, with then-Palm Beach Chief Michael Reiter saying in a May 2006 letter to then-State Attorney Barry Krischer that the chief prosecutor should disqualify himself.

"I continue to find your office's treatment of these cases highly unusual," Reiter wrote. He then asked for and got the federal investigation that ended in the sealed deal.

"The Jeffrey Epstein matter was an experience of what a many-million-dollar defense can accomplish," Reiter told the *Palm Beach Daily News* upon his retirement.

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@pbpost.com

**Former Judge Bill Berger, representing victims,
called the agreement a 'sweetheart deal.'**

More on Epstein

■ Read the agreement that was unsealed Friday.

■ Get past coverage on the the Jeffrey Epstein case.

PalmBeachPost.com/epstein

■ See video of Epstein being questioned about his manhood.

Page2live.com

The Palm Beach Post

TIM BURKE, *Executive Editor* RANDY SCHULTZ, *Editor of the Editorial Page*

Sleazy perp, sleazier deal

Government acted like Epstein's go-betweens.

On the second page of the secret deal between federal prosecutors and Jeffrey Epstein, we read that the agreement will serve the interests of "the United States, the State of Florida, and the Defendant." Wrong on the first two, right on the third.

Until Friday, the public didn't know the terms of the deal that finalized the case of the Palm Beacher who arranged to have girls brought to his house for sex and massages. Only Epstein's platoon of lawyers, the U.S. Attorney's Office for the Southern District of Florida and the Palm Beach County State Attorney's Office knew the details. And now we know why the perpetrators of this outrage didn't want the public to know.



Epstein

The deal is an indictment of a system that did much more for a criminal than for his victims. Jeffrey Epstein — officially a registered sex offender but in plain terms a pervert — escaped what should have been serious prison time. Instead, the federal deal allowed him to plead guilty to light charges in state court. He spent just 13 months — nights only — in the Palm Beach County Jail. Meanwhile, the government tried to help Epstein buy off the young girls whom Epstein had exploited.

Several of those girls have filed civil suits against Epstein. (Their lawyers and lawyers for *The Post* sued to make the plea deal public.) In the agreement, the government proposes to identify all the alleged victims and steer them to a lawyer, whose expenses Epstein would pay. In return, however, the victims would withdraw all lawsuits from state court and agree to a settlement in federal court of no more than \$150,000 each. Even then, of course, Epstein would not acknowledge any "liability."

The agreement thus placed the Department of Justice in a role similar to those of the four women who procured girls for Epstein. If there's a precedent in this or any of the other 92 United States attorney's offices, we'd like to hear it. Not surprisingly, R. Alexander Acosta also agreed not to prosecute those women.

If the outcome is frustrating, so is the lack of accountability. Mr. Acosta's name is on the deal, but he's now the dean of Florida International University's law school. A call to his office for comment Monday was not returned. The name of Assistant U.S. Attorney A. Marie Villafana is on the deal. She still works as a federal prosecutor in West Palm Beach, but Alicia Valle, the office's special counsel, said in an e-mail, "We cannot comment on your questions." Didn't she really mean *will not*?

This case got into the federal system because former Palm Beach Police Chief Michael Reiter believed that Palm Beach County State Attorney Barry Krischer wasn't moving aggressively enough. Mr. Krischer retired last year. The assistant state attorney who oversaw the case is no longer with the office.

At this point, the public must hope that the civil suits suck as much money from Epstein as possible. Money seems to be all that he understands. Also, Jeffrey Sloman is serving as the acting U.S. attorney for the Southern District of Florida until President Obama nominates a permanent replacement for confirmation by the Senate. It would be good to know that whoever follows Mr. Acosta is on record that the Jeffrey Epstein deal did not serve the interests of the United States.

**TALK
BACK!**

How much of a break did the system give Jeffrey Epstein?

<http://blogs.PalmBeachPost.com/opinionzone>

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

This cause having been brought to the Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as may be in accordance with the opinion of this Court, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable Robert M. Gross, Chief Judge of the District Court of Appeal of the State of Florida, Fourth District, and seal of the said Court at West Palm Beach, Florida on this day.

DATE: September 18, 2009

CASE NO.: 4D09-2554

COUNTY OF ORIGIN: Palm Beach

T.C. CASE NOS.: 502006CF009454AXXMB and 502008CF009381AXXMB

STYLE: JEFFREY EPSTEIN **I.** STATE OF FLORIDA, ET AL.



Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

ORIGINAL TO: Sharon R. Bock, Clerk

cc:

Barbara J. Compiani	Jane Kreuzler-Walsh	Jack A. Goldberger	Robert D. Critton, Jr.
Deanna K. Shullman	Diana Martin	William J. Berger	U.S. Attorney'S Office
Spencer T. Kuvin	State Attorney-P.B.	Bradley J. Edwards	Rebecca Mercier Vargas
Michael J. Pike	James B. Lake	R. Alexander Acosta	

kg

THE LOWDOWN

... Just don't ask millionaire Palm Beach sex offender **Jeffrey Epstein** about his privates. Local attorney **Spencer Kuvin** did during a deposition Sept. 2, and Epstein walked out — 100 seconds after it started. And it was all caught on a video posted on *Page Two's* online sister, *page2live.com*. Epstein did answer the first question: "What is your name?" But he balked at the second: "Is it true that ... you have an egg-shaped penis?" Epstein took off his microphone and left. And it cost the Wall Street prodigy Epstein: He was fined



Epstein

\$800 by the West Palm Beach court currently hearing civil lawsuits filed by women whom Epstein paid for sex when they were underage. "It absolutely was an important question," said Kuvin. "If he claims to have never met them, then we should know whether the victim is telling the truth." The deposition has been reset for Oct. 8, and Epstein should expect the same question ... **Burt Reynolds** was back in rehab Thursday. It was just for a daylong refresher at the Hanley Center in WPB. Reynolds, 73, admitted himself at Hanley for a 30-day program in mid-August and was released last week. He admitted to battling an addiction to pain pills ...

COURTS

WEST PALM BEACH — Financier and sex offender **Jeffrey Epstein's** secret deal struck with federal prosecutors is due to be released to the public today. Circuit Judge Jeffery Colbath ruled the document was improperly sealed and should be released, and an appellate court agreed. Under the deal, Epstein avoided federal charges and pleaded guilty in state court to felony solicitation of prostitution and procuring a person under the age of 18 for prostitution. In July 2008, he was sentenced to 18 months in jail and later allowed out up to six days a week on work release. He now faces at least 20 civil lawsuits filed by women who say they were victims.

Judge agrees to unseal Epstein's sex scandal deal

By SUSAN SPENCER-WENDEL
Palm Beach Post Staff Writer

WEST PALM BEACH — A circuit judge agreed Thursday to unseal a deal struck with federal prosecutors to avoid their filing of charges in the wake of his sex scandal with underage girls. Circuit Judge Jeff Colbath said he would not release Epstein's agreement with federal prosecutors until Monday, allowing him time to redact the



Epstein

names of victims. Colbath ruled that the deal had not been sealed properly.

Jack Goldberger, Epstein's attorney, immediately asked for a stay of Colbath's decision to unseal the agreement in order to appeal it. A hearing on that request is set for this morning.

See EPSTEIN, 5B ▶

Epstein scheduled for release in July

▶ EPSTEIN from 1B

Attorneys for women now suing Epstein, as well as attorneys for *The Palm Beach Post*, had asked Colbath to release the deal, arguing the public and the victims have a right to see it.

"There is nothing more fundamentally important than for the public and press to observe how the government is doing its job," *Post* attorney Deanna Shullman said. "There is great public interest in how everybody in this case is doing their job."

Goldberger argued that the confidential agreement Epstein struck with federal prosecutors should remain confidential. Included in it, Goldberger said, are references to federal grand jury proceedings, which are secret and protected by federal rules. A federal judge should decide the issue, he said.

Attorneys Spencer Kuvin and Brad Edwards, who represent some of the women now suing Epstein, both said they were not surprised by Epstein's attorney moving to appeal.

"Any chance to stall in any way and keep the agreement out of public disclosure, they will take it," said Edwards outside court.

He will have served about 13 months of an 18-month sentence.

Epstein pleaded guilty nearly one year ago to solicitation of prostitution and procuring teenagers for prostitution and was sentenced to 18 months in prison.

A sheriff's office official confirmed Thursday that Epstein will be released from the Palm Beach County Stockade on July 22 — nearly 13 months into his sentence.

Sheriff's office spokesman Eric Davis said Epstein has earned good time for good behavior and for participating in work-release program.

The saga began years ago after Palm Beach police began investigating reports that young women were being brought to manse on El Brillo Way to massage him and have with him in exchange money.

Displeased with way the state attorney office handled the Palm Beach police forwarded information the Federal Bureau of Investigation.

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LC** | **BURMAN, CRITTON
LUTTIER & COLEMAN, LLP**
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A LIMITED LIABILITY PARTNERSHIP

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OF COUNSEL
EDWARD M. RICCI
OF COUNSEL

May 25, 2010

¹FLORIDA BOARD CERTIFIED CIVIL TRIAL LAWYER
²ADMITTED TO PRACTICE IN FLORIDA AND COLORADO

Honorable Edward B. Davis
Akerman Senterfitt
25 Third Avenue

Sent by email and
by U.S. Mail to Judge Davis only

Re: Jeffrey Epstein

Dear Judge Davis:

We are in receipt of Mr. Josefsberg's letter to you dated May 21, 2010. We confirm that Mr. Epstein settled each and every case brought by the attorney-representative selected by you.

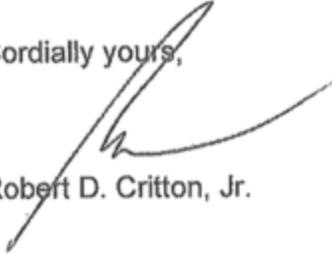
We write this response only to advise you that Mr. Epstein has never refused to pay reasonable settlement-related fees that are within the scope of the NPA. He has already paid the attorney-representative \$526,000. The attorney-representative has not yet presented him with a final invoice for settlement-related work. The incomplete invoices that have been presented seek \$2,000,000 in additional fees. Mr. Epstein has been advised by his attorneys that the requested fees include duplicative work, charges that relate to preparation for litigation not settlement (thus outside his NPA-fee obligations) and charges that are unreasonable and that should be reviewed by a Court rather than simply paid without meaningful review. A significant amount of the total fees (over \$1,000,000) is for legal work that the invoices document were done by two outside attorneys who are not even attorneys with the Podhurst Orseck, P.A. law firm. Mr. Epstein's disputes the necessity for and redundancy of these charges.

We respect Your Honor's selection and regret that the issue of disputed fees has resulted in litigation. Mr. Epstein is committed to paying whatever fees and costs are determined by the

May 25, 2010
Page 2

Court to be his obligation, if any, but he is not required to simply write a blank check. I have filed a motion in the case pursuant to F.R.Civ.P. 67, to allow him to deposit \$2,000,000 in Trust with the Court pending the outcome of the Complaint which confirms his commitment.

Cordially yours,


Robert D. Critton, Jr.

RDC/JPL:ab

Cc

[REDACTED] AUSA - [REDACTED]
[REDACTED], AUSA - [REDACTED]
Jack Goldberger, Esq.
Robert Josefsberg, Esq. [REDACTED]

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION

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STATE OF FLORIDA)
vs) CASE NO. 06 CF9454AMB
JEFFREY EPSTEIN) 08 9381CFAMB
Defendant.)
_____)

PLEA CONFERENCE

PRESIDING: HONORABLE DEBORAH DALE PUCILLO

APPEARANCES:

ON BEHALF OF THE STATE:
BARRY E. KRISCHER, ESQUIRE
State Attorney
401 North Dixie Highway
West Palm Beach, Florida 33401
By: LANNA BELOHLAVEK, ESQUIRE
Assistant State Attorney

ON BEHALF OF THE DEFENDANT:
ATTERBURY, GOLDBERGER & WEISS, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, Florida 33401
By: JACK GOLDBERGER, ESQUIRE

CERTIFIED COPY

June 30, 2008
Palm Beach County Courthouse
West Palm Beach, Florida 33401
Beginning at 8:40 o'clock, a.m.

PHYLLIS A. DAMES, OFFICIAL COURT REPORTER

1 BE IT REMEMBERED that the following
2 proceedings were had in the above-entitled cause
3 before the HONORABLE DEBORAH DALE PUCILLO, one of
4 the judges of the aforesaid court, at the Palm
5 Beach County Courthouse, located in the City of
6 West Palm Beach, State of Florida on June 20, 2008
7 beginning at 8:40 o'clock, a.m. with appearances
8 as hereinbefore noted, to wit:

9 THEREUPON:

10 MR. GOLDBERGER: Good morning, Judge,
11 Jack Goldberger on behalf of Jeffrey
12 Epstein.

13 THE COURT: Good morning.

14 MR. GOLDBERGER: Your Honor, we are
15 here for a plea conference.

16 THE COURT: Raise your right hand.

17 THEREUPON:

18 JEFFREY EPSTEIN,
19 after being called as a witness by the Defense and
20 after being first duly sworn by the Court, was
21 examined and testified as follows:

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Is this one case or two?

24 MS. BELOHLAVEK: Two.

25 THE COURT: May I see the PC

1 degree felony, punishable by a maximum
2 penalty of five years in the Department of
3 Corrections, and a minimum, probation. No
4 mandatory minimums, correct?

5 MS. BELOHLAVEK: Correct.

6 THE COURT: The defendant has no
7 prior criminal record?

8 MS. BELOHLAVEK: Correct.

9 MR. GOLDBERGER: Yes, Your Honor.

10 THE COURT: You checked the NCIC as
11 well as State records?

12 MS. BELOHLAVEK: Yes.

13 THE COURT: And the guideline score
14 sheet I have before me shows 21.5 months in
15 the Department of Corrections as the lowest
16 permissible prison sentence in months.
17 Both sides agree to the preparation of the
18 guideline score sheet?

19 MR. GOLDBERGER: We so agree, Your
20 Honor.

21 MS. BELOHLAVEK: Yes.

22 THE COURT: What is proposed -- it
23 goes on for pages.

24 MR. GOLDBERGER: Your Honor, much of
25 the documentation is acknowledgement by my

1 affidavit in both cases, please?

2 MS. BELOHLAVEK: There are no PC
3 affidavits. There was originally an
4 Indictment, the second charge was filed
5 arising out of the booking. It was all
6 testimony presented to the grand jury.

7 THE COURT: Let me see the Indictment
8 then?

9 I have one Indictment, one
10 Information?

11 MS. BELOHLAVEK: Correct.

12 THE COURT: So one case is charged by
13 Indictment, one is charged by Information?

14 MS. BELOHLAVEK: Correct.

15 THE COURT: In case 2006036744 you
16 are charged with procuring a person under
17 18 for prostitution, a second degree
18 felony, maximum penalty of fifteen years
19 Department of Corrections; minimum, some
20 period of probation. No mandatory minimum
21 apply, is that correct, State?

22 MS. BELOHLAVEK: Correct.

23 THE COURT: And in case number 06
24 9454CF, you are charged with felony
25 solicitation to prostitution, a third

1 client to community control, sex offender
2 status.

3 THE COURT: I understand.

4 Okay. What is proposed -- those
5 are the maximums and minimums, Mr. Epstein.
6 What is proposed is that you will be
7 pleading guilty to felony solicitation to
8 prostitution and procuring a person under
9 18 for prosecution. A PSI would be waived,
10 you would be adjudicated guilty of both
11 felonies, is that correct?

12 MS. BELOHLAVEK: Correct.

13 THE COURT: And on 06 9454, the
14 defendant to be sentenced to 12-months in
15 the Palm Beach County -- detention
16 facility? He's going to do time in the
17 jail?

18 MS. BELOHLAVEK: Yes.

19 THE COURT: With credit for one day
20 served. And on 08 9381, he is to be
21 sentenced to six months in the Palm Beach
22 County jail detention facility, with credit
23 for one day served. And the six month
24 sentence is to be served consecutive to the
25 12 month sentence?

1 MS. BELOHLAVEK: Correct.

2 THE COURT: Following the six months
3 sentence, the defendant will be placed on
4 12-months of community control one. The
5 conditions of the community control are
6 attached hereto and incorporated herein.

7 As a special condition of
8 community control, he's to have no
9 unsupervised contact with minors and the
10 supervising adult must be approved -- and I
11 would say, pre-approved, approved ahead of
12 time, not after the fact by the Department
13 of Corrections. And you would mean by that
14 his community control officer?

15 MS. BELOHLAVEK: Correct.

16 THE COURT: The defendant is
17 designated as a sexual offender pursuant to
18 Florida Statute 943.0435 and must abide by
19 all the corresponding requirements of the
20 statute, a copy of which is attached hereto
21 and incorporated herein. The defendant
22 must provide a DNA sample in court at the
23 time of this plea. Is this the -- and the
24 attachments are the terms and conditions of
25 community control. There are some

1 squiggles on the bottom of the page, what
2 would those squiggles be?

3 MR. GOLDBERGER: Thank you, Your
4 Honor, those are my client's signature
5 acknowledging that we have gone over all
6 the conditions.

7 THE COURT: One page after the plea
8 sheet that really spells out the terms and
9 conditions of community control, Florida
10 Statute 948.101, Mr. Epstein, is that
11 squiggle at the bottom your squiggle?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Would those be your
14 initials?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Did you read all of that
17 page?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Can you read?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: How far did you go in
22 school?

23 THE DEFENDANT: High school.

24 THE COURT: That's your highest
25 degree?

1 THE DEFENDANT: Yes.

2 THE COURT: And is this your
3 signature on the plea sheet that recites
4 the terms of the plea I just read?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Did you read that
7 document as well?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: You understand once you
10 do your 12 months followed by your six
11 months all in the Palm Beach County jail
12 you will then be put on community control
13 which involves having an electronic monitor
14 attached to you and --

15 MR. GOLDBERGER: Actually Your Honor,
16 the agreement of the parties is to, it's
17 community control one which is not monitor.

18 THE COURT: Oh, community control
19 one, is that spelled out in here?

20 MS. BELOHLAVEK: Yes.

21 MR. GOLDBERGER: Yes, it is, Your
22 Honor.

23 MS. BELOHLAVEK: He does not fall
24 under the Jessica Lunsford Act which
25 requires the bracelet.

1 THE COURT: Community control two.

2 MS. BELOHLAVEK: Correct.

3 THE COURT: Community control one --
4 that would be no electronic monitor?

5 MR. GOLDBERGER: That is correct.

6 THE COURT: Now which of the terms
7 and conditions of community control one are
8 you incorporating?

9 MR. GOLDBERGER: I can go through
10 them with Your Honor.

11 THE COURT: None of the them appear
12 to be articulated in the plea sheet which
13 is why I'm asking.

14 MR. GOLDBERGER: These are the
15 standard conditions of community control by
16 statute would apply to anyone that goes on
17 community control and out of an abundance
18 of caution, we simply memorialized those
19 standard conditions in the plea sheet
20 agreement.

21 THE COURT: The Court shall require
22 intensive supervision and surveillance for
23 an offender placed on community control
24 which may include but is not limited to
25 specified contact with the parole and

1 probation officer, specified by who?

2 PROBATION OFFICER: Specified by you,
3 Your Honor.

4 THE COURT: I don't see that in the
5 plea sheet. That's why I'm asking the
6 questions. No one has specified how often,
7 how frequently he is to have contact with
8 his parole and probation officer.
9 Confinement to an agreed upon residence
10 during the hours away from employment and
11 public service activity, has that been
12 articulated?

13 MS. BELOHLAVEK: I believe
14 Judge McSorley has a standard order
15 somewhere on the bench up there regarding
16 this, I'm told by the prosecutor.

17 MS. LENHARDT: Judge, usually this is
18 the probation sheet she hands out to folks.

19 THE COURT: I have seen those
20 sheets -- I have seen them incorporated in
21 plea agreements which is why I'm asking.

22 MR. GOLDBERGER: I see.

23 THE COURT: Is there some reason you
24 didn't use this particular document in this
25 case?

1 MS. BELOHLAVEK: I didn't realize
2 until Ms. Lenhardt just told me that Judge
3 McSorley has that.

4 MR. GOLDBERGER: We'd be happy to
5 execute that document, Your Honor. We were
6 -- we overreacted by just having him sign
7 off on all conditions of community control.

8 THE COURT: Well, this is --

9 MR. GOLDBERGER: Perhaps the better
10 practice would be --

11 THE COURT: This is, the reason
12 Judge McSorley does this which makes
13 ultimate sense is we're going to be here
14 half the morning if we're going to decide
15 among ourselves now what the --

16 MR. GOLDBERGER: That makes sense.

17 THE COURT: I'm not going to leave
18 this just unspecified.

19 MS. BELOHLAVEK: We can take care of
20 that right now if you could give us a few
21 minutes.

22 THE COURT: All right.

23 These are the standard conditions
24 that Judge McSorley normally uses. If you
25 like them, you need to circle the ones that

1 apply and everyone must initial them. We
2 will go over it. If you wish to change --
3 you understand there is quite a bit of
4 latitude given the court in putting
5 somebody on community control. If you
6 agree to some change, let me know, but
7 understand at the outset that I'm a big fan
8 of specificity. I want to know what he
9 will be doing for employment. I want to
10 know exactly where he is going to be living
11 and I want it on the record now. It can
12 change but it can only change with
13 preapproval by DOC. I want it crystal
14 clear. I don't want the community control
15 officer who gets this case the day he walks
16 out the Palm Beach County to have any doubt
17 or confusion as to exactly what this
18 defendant is supposed to do, where he is
19 supposed to be when, exactly what I am
20 requesting that officer to supervise.

21 MS. BELOHLAVEK: Absolutely.

22 THE COURT: Okay.

23 MR. GOLDBERGER: We will work on it.

24 Thank you, Your Honor.

25 THE COURT: We will recall that case.

1 (Brief recess.)

2 MR. GOLDBERGER: Your Honor, we are
3 back on Jeffrey Epstein, actually it
4 worked, we had an opportunity to go through
5 Judge McSorley's conditions of community
6 control and we asked the Department of
7 Corrections representative to assist us to
8 make sure we did everything properly.
9 They were very helpful and we executed the
10 document.

11 MS. BELOHLAVEK: Yes, and Your Honor,
12 this defendant doesn't fall under the sex
13 offender probation but we have included
14 special sex offender conditions as part of
15 the community control and they are all
16 circled there.

17 THE COURT: The plea agreement stated
18 the defendant is designated as a sexual
19 offender pursuant to Florida Statute
20 942.035.

21 MS. BELOHLAVEK: Correct. But the
22 sex offender probation, the statute is
23 different and only applies to certain
24 offenses and this one was not enumerated.

25 THE COURT: Okay. I want to make

1 sure both I and the defendant are clear.
2 The sexual offender statute you are
3 referring to in the plea sheet is the one
4 that requires registration?

5 MS. BELOHLAVEK: Correct.

6 MR. GOLDBERGER: Correct.

7 THE COURT: And we will talk about
8 that.

9 MR. GOLDBERGER: Okay.

10 THE COURT: But it is not the one
11 that requires the special conditions of sex
12 offender probation?

13 MS. BELOHLAVEK: Correct.

14 THE COURT: Now, rather than 948, do
15 you want me to disregard 948? He's read
16 it?

17 MS. BELOHLAVEK: He's read it.

18 THE COURT: We will leave it in
19 there. But these conditions we are going
20 to go over right now are going to be viewed
21 in my mind, yes, and they have been signed
22 by the defendant and we will go over that
23 in a second as a part of the whole plea.

24 MS. BELOHLAVEK: Correct.

25 THE COURT: So circled are

1 conditions, A, you will remain confined to
2 your residence except one half hour before
3 and after your approved employment,
4 community service work or any other
5 activity approved by your probation
6 officer.

7 B, you will maintain an hourly
8 accounting of all your activities on a
9 daily log which you will submit to your
10 supervising officer upon request.

11 My understanding about the daily
12 log, maybe I'm just confused from other
13 cases I've heard, is the daily log is a
14 weekly log, I guess it is submitted ahead
15 of time, is that correct?

16 PROBATION OFFICER: That is correct,
17 Your Honor.

18 THE COURT: So part A, where he has
19 to stay in his residence except for one
20 hour before and after the approved
21 employment, community service work and
22 other activity. All that's information
23 that will be recorded in writing and the
24 defendant will have a copy and he will know
25 exactly where he is supposed to be when.

1 PROBATION OFFICER: That is correct,
2 Your Honor.

3 THE COURT: As will his supervising
4 probation officer. And then to document
5 that he's supposedly done all that he
6 himself will be keeping a daily log?

7 PROBATION OFFICER: That is correct,
8 Your Honor.

9 THE COURT: And the log form will be
10 provided by the department and he will be
11 turning that in every time he meets with
12 the probation officer?

13 PROBATION OFFICER: That is correct,
14 Your Honor.

15 THE COURT: Okay. So that applies
16 and F applies. Does E apply? No.

17 MS. BELOHLAVEK: Did I circle E?

18 THE COURT: No. F -- made one up,
19 the defendant will be residing at 358 El
20 Brillo Way, Palm Beach, Florida, 33480. He
21 knows now that that's where he will be
22 living when he is released after his 12
23 months and six months.

24 MR. GOLDBERGER: That is correct,
25 Your Honor.

1 THE COURT: That's a private
2 residence?

3 MR. GOLDBERGER: That is his home.

4 THE COURT: Does he own the
5 residence?

6 MR. GOLDBERGER: He does, Your Honor.

7 THE COURT: Is there any possibility
8 that he no longer owns the residence?

9 MR. GOLDBERGER: Not anticipated,
10 Your Honor.

11 THE COURT: Okay. Should he not be
12 for whatever reason -- 18-months is a long
13 time, should he not be owning that
14 residence or able to reside there, he will
15 have the obligation of notifying his
16 probation officer prior, and I emphasize
17 this, prior to his release from custody. I
18 assume that the department will be notified
19 prior to, to his release?

20 PROBATION OFFICER: That is correct,
21 Your Honor.

22 THE COURT: And then you would need
23 to send someone to meet with him before he
24 walks out of the Palm Beach County jail and
25 verify his address and employment

1 information?

2 PROBATION OFFICER: That is correct.

3 THE COURT: All address -- I assume
4 all of this to and from work and any other
5 approved activities restricts him to Palm
6 Beach County, is that correct?

7 PROBATION OFFICER: That is correct,
8 Your Honor.

9 THE COURT: So let's be clear,
10 everything, from the day he walks out
11 occurs in Palm Beach County, is that clear?

12 MR. GOLDBERGER: We understand, Your
13 Honor. That's correct.

14 THE COURT: Then the additional
15 condition of his probation, they are not
16 sex offender standard conditions, they are
17 just conditions that are being imposed
18 especially in this case?

19 MS. BELOHLAVEK: Correct.

20 THE COURT: They are as follows, you
21 shall submit to a mandatory curfew from 10
22 p.m. to 6:00 a.m. regardless of any other
23 restrictions regarding work or approved
24 activity, there will be no exceptions to
25 being at home in house from 10 p.m. to 6

1 a.m., is that correct?

2 MS. BELOHLAVEK: Yes.

3 THE COURT: If the victim was under
4 age of 18 years which I gather is the case
5 because it's circled, you shall not live
6 within 1000 feet of a school, day care
7 center, park, playground or other place
8 where children regularly congregate.

9 Has someone verified that 358 El
10 Brillo is such a place?

11 MS. BELOHLAVEK: No, but that will be
12 done prior to his release.

13 THE COURT: So 358 El Brillo will not
14 be approved if it should happen to be one
15 thousand feet from a school, day care
16 center, park, playground or other place --
17 this is rather open.

18 MR. GOLDBERGER: Where children
19 gather.

20 THE COURT: Where children regularly
21 congregate.

22 MS. BELOHLAVEK: Right.

23 THE COURT: The Court knows 358 El
24 Brillo Way is a residential neighborhood,
25 are there areas there where children

1 regularly congregate?

2 MS. BELOHLAVEK: I personally do not
3 know.

4 THE COURT: Neither do I, which is
5 why I'm asking. Has that been
6 investigated?

7 MR. GOLDBERGER: We have done our due
8 diligence, for what it's worth, there is a
9 residential street. There are not children
10 congregating on that street. We think the
11 address applies, if it doesn't, we fully
12 recognize that he can't live there.

13 THE COURT: Okay. D is, you shall
14 not have any contact with the victim, are
15 there more than one victim?

16 MS. BELOHLAVEK: There's several.

17 THE COURT: Several, all of the
18 victims. So this should be plural. I'm
19 making that plural. You are not to have
20 any contact direct or indirect, and in this
21 day and age I find it necessary to go over
22 exactly what we mean by indirect. By
23 indirect, we mean no text messages, no
24 e-mail, no Face Book, no My Space, no
25 telephone calls, no voice mails, no

1 messages through carrier pigeon, no
2 messages through third parties, no hey
3 would you tell so and so for me, no having
4 a friend, acquaintance or stranger approach
5 any of these victims with a message of any
6 sort from you, is that clear?

7 THE DEFENDANT: Yes, ma'am

8 THE COURT: And then it states,
9 unless approved by the victim, the
10 therapist and the sentencing court. Okay.

11 THE DEFENDANT: I understand.

12 THE COURT: And the sentencing court.
13 So, if there is a desire which, I would
14 think would be a bit strange to have
15 contact with any of the victims the court
16 must approve it.

17 MS. BELOHLAVEK: Correct.

18 THE COURT: If the victim was under
19 the age of 18, which was the case, you
20 shall not until you have successfully
21 attended and completed the sex offender
22 program. So, is this sex offender program
23 becoming a condition of probation?

24 MS. BELOHLAVEK: That is not. I
25 don't believe I circled that one.

1 THE COURT: You did.

2 MR. GOLDBERGER: That's a mistake on
3 our part. Actually the statute that he is
4 pleading guilty to does not require the --

5 THE COURT: I understand that, but
6 you circled it.

7 MS. BELOHLAVEK: I apologize, that
8 one is not. He has already been in
9 treatment with a private psychiatrist.

10 THE COURT: Which you find to be an
11 adequate substitute for sex offender
12 program?

13 MS. BELOHLAVEK: I -- it is not
14 required and based upon the evaluation and
15 my contact with that doctor, I don't
16 believe it's necessary at this point.

17 THE COURT: Has that been -- I assume
18 you have a law degree and do not have a
19 Ph.D in a psychology or MD in psychiatry?

20 MS. BELOHLAVEK: That is correct, I
21 don't.

22 THE COURT: So it is just your
23 judgement --

24 MS. BELOHLAVEK: Correct.

25 THE COURT: -- that his treatment

1 with some fancy private psychiatrist or
2 psychologist in his case is okay?

3 MS. BELOHLAVEK: That is correct.

4 THE COURT: So you are not imposing
5 E?

6 MS. BELOHLAVEK: Correct.

7 THE COURT: F, if the victim was
8 under the age of 18, you shall not work or
9 play or as a volunteer in any school, day
10 care center, park, play ground or other
11 place where children regularly congregate,
12 is that understood?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Children will be defined
15 as anyone under the age of 18. There are a
16 lot of places where children regularly
17 congregate. What kind of work do you do?

18 THE DEFENDANT: Banking.

19 THE COURT: Here in Palm Beach
20 County?

21 THE DEFENDANT: Virgin Islands,
22 ma'am.

23 THE COURT: You understand you will
24 not travel from Palm Beach County for the
25 duration of this?

1 THE DEFENDANT: Yes, ma'am.

2 MR. GOLDBERGER: Your Honor, I'm
3 sorry to interrupt, we do cover the
4 employment later in the agreement as to
5 what he is going to be doing during the one
6 year that he is on community control.

7 THE COURT: Okay. And let me --
8 condition G, which is circled, unless
9 otherwise indicated in the treatment plan
10 provided by sexual offender treatment
11 program.

12 MR. GOLDBERGER: That's not in there.

13 THE COURT: Is that what you want?

14 MS. BELOHLAVEK: No.

15 THE COURT: But you do want the, you
16 will not view, own or possess any obscene
17 pornographic --

18 MS. BELOHLAVEK: Correct.

19 THE COURT: Okay. But are you saying
20 that this therapist can okay him to own
21 certain pornographic material?

22 MS. BELOHLAVEK: No, not at all.

23 MR. GOLDBERGER: No, Your Honor.

24 THE COURT: Would be really helpful
25 if people read these things before they

1 signed them thoroughly.

2 Unless otherwise indicated in the
3 treatment plan. I'm just going to strike
4 out, provided by the sexual offender
5 treatment program. Is that what you
6 intend, that his therapist can --

7 MS. BELOHLAVEK: No.

8 THE COURT: No?

9 MS. BELOHLAVEK: No.

10 THE COURT: Unless otherwise
11 indicated.

12 MR. GOLDBERGER: The parties have
13 agreed that during the period that he is --
14 cannot be --

15 THE COURT: Condition G will now
16 read, you shall not view, own, possess any
17 obscene, pornographic or sexually
18 stimulating visual or auditory material
19 including telephonic, electronic media,
20 computer program or computer services that
21 are relevant to your deviant behavior
22 pattern. And who is going to enforce that?

23 MS. BELOHLAVEK: The community
24 control officer.

25 THE COURT: How?

1 MS. BELOHLAVEK: They have the
2 obligation and included in there for
3 warrantless search to check at any time his
4 home, his computer, anything he has contact
5 with.

6 THE COURT: And do they regularly do
7 that?

8 PROBATION OFFICER: Yes, ma'am.

9 THE COURT: Since we have the
10 pleasure of having someone from the
11 Department of Corrections here.

12 Okay. H, you shall submit two
13 specimens of blood to the Florida
14 Department of Law Enforcement to be
15 registered in the DNA data bank.

16 J, you shall submit to a
17 warrantless search by your probation
18 officer or community control officer of
19 your person, residence or vehicle.

20 G -- where is the G?

21 MS. BELOHLAVEK: That was under the
22 original part, not under the sex offender
23 one.

24 THE COURT: Okay. Defendant to have
25 contact with the community control officer

1 at a minimum one time a week.

2 Defendant to work at Florida
3 Science Foundation, 250 Australian Avenue,
4 West Palm Beach, Florida. Is that
5 volunteer work or work for pay?

6 MR. GOLDBERGER: It is a 501C
7 corporation that he has formed, Your Honor,
8 that will be doing charitable work.

9 THE COURT: That he has formed?

10 MR. GOLDBERGER: Yes.

11 THE COURT: What exactly is Florida
12 Science Foundation?

13 MR. GOLDBERGER: Do you want to
14 explain?

15 THE DEFENDANT: It funds science
16 programs around the state and the country.

17 THE COURT: How long has it been in
18 existence?

19 THE DEFENDANT: Fifteen years.

20 THE COURT: How many programs has it
21 funded?

22 THE DEFENDANT: Numerous, more than
23 50.

24 THE COURT: What is your position
25 with the organization?

1 THE DEFENDANT: President.

2 THE COURT: Is there a board of
3 directors?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Who's on the board of
6 directors?

7 THE DEFENDANT: Two attorneys.

8 THE COURT: What exactly do you do?

9 THE DEFENDANT: I'm an investment
10 banker but my --

11 THE COURT: No, no, I mean with the
12 science foundation.

13 THE DEFENDANT: We fund
14 science programs --

15 THE COURT: I don't want to know what
16 we do, I want to know what you do. How
17 often are you there?

18 THE DEFENDANT: I'm there every day,
19 I research, I take in people who want to
20 make presentations about why they need
21 money for funding medical research,
22 advanced science research. My background
23 is in physics. I go through all the
24 programs in detail, review the science work
25 potentials, I follow through on a daily

1 basis with what they have been given money
2 to do.

3 THE COURT: Who are some recent
4 grantees?

5 THE DEFENDANT: Harvard University.
6 There is a full program of Evolutionary
7 Dynamics, Neuro Science Institute of
8 California, the Physics Institute, MIT.

9 THE COURT: Do you ever have occasion
10 to deal with anyone under the age of
11 eighteen?

12 THE DEFENDANT: Not very often. It
13 is, if someone is in college -- sorry.

14 THE COURT: Right, that's why I'm
15 asking the question.

16 THE DEFENDANT: Most of the people I
17 fund are all usually professors.

18 THE COURT: Thank you. You
19 understand that you can't have contact with
20 anyone if -- this organization, do they
21 ever have any involvement with high
22 schools?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Students or teachers?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Okay.

2 MS. BELOHLAVEK: Those are
3 duplicates, you will see those are the same
4 as the ones on the previous page, however,
5 it was reproduced.

6 THE COURT: The next condition, you
7 shall maintain a driving log. You shall
8 not drive a motor vehicle while alone
9 without prior approval of your supervising
10 officer.

11 If there was sexual contact, you
12 shall submit to at probationer's or
13 community controllee's expense an HIV test
14 with results to be released to the victims,
15 victim's parent or guardian -- will be
16 victims, plural. Has that been done?

17 MR. GOLDBERGER: Not yet.

18 THE COURT: Do we have a time frame
19 on that? I would think ASAP might be good
20 on something like that.

21 MS. BELOHLAVEK: I believe they can
22 actually do that at the jail.

23 THE COURT: At his expense?

24 MS. BELOHLAVEK: Yes.

25 THE COURT: I would request that that

1 be done within 48 hours?

2 You shall not obtain or use a post
3 office box without prior approval of the
4 supervising officer.

5 Okay. Are all those conditions
6 you two have agreed to?

7 MS. BELOHLAVEK: Yes, Your Honor.

8 MR. GOLDBERGER: With the court's
9 amendments, yes.

10 THE COURT: Mr. Epstein, do you
11 understand?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: I need the defendant to
14 sign number D where I had an s added to
15 victim, and G, we struck out the otherwise
16 indicated language. Otherwise, it is as
17 you agreed.

18 Mr. Epstein, do you understand
19 this is a somewhat complicated terms of the
20 plea that you've agreed to?

21 THE DEFENDANT: Yes, ma'am

22 THE COURT: Do you have any questions
23 about the terms of the plea?

24 THE DEFENDANT: No.

25 THE COURT: Can I ask the State why

1 you choose -- or defense and the State
2 together, why twelve months in the Palm
3 Beach County jail followed by six months?
4 Why not just send him to DOC?

5 MR. GOLDBERGER: It was the agreement
6 of the parties, Your Honor. We just
7 decided that was the best way to accomplish
8 what needed to be done here and the parties
9 agreed that that sentence satisfied
10 everyone's requirements.

11 THE COURT: The taxpayers of Palm
12 Beach County is going to pay 18 months to
13 house this guy instead of DOC?

14 MS. BELOHLAVEK: Right.

15 THE COURT: You understand we're
16 losing positions left and right in county
17 government because we haven't got enough
18 money but you want -- okay.

19 His requirement to register there
20 is many, many -- there is nine pages
21 outlining the sexual offender's requirement
22 to register with the department and
23 penalty, have you read all those,
24 Mr. Epstein?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you understand you
2 will be required to register and this will
3 be an ongoing life long obligation?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And this registration
6 occurs when?

7 MS. BELOHLAVEK: Within 48-hours of
8 release.

9 THE COURT: So when he gets out of
10 the Palm Beach County jail, he needs to
11 register? Okay. And the department -- who
12 is going to provide him with the form?

13 MR. GOLDBERGER: He actually
14 registers out at the Sheriff's Office, Your
15 Honor, we can do it out there.

16 THE COURT: Okay. It has been
17 brought to my attention that FDLE is the
18 one who is statutorily required to handle
19 these registrations but some of our
20 municipal jurisdictions have taken it upon
21 themselves to impose additional
22 requirements, y'all understand that?

23 MS. BELOHLAVEK: Correct.

24 MR. GOLDBERGER: Right.

25 THE COURT: What you are telling him

1 he has to do is the official State of
2 Florida registration?

3 MS. BELOHLAVEK: Correct.

4 THE COURT: Mr. Epstein, I need to
5 make sure you understand that that's what's
6 required by this plea. Anyone on
7 probation, community control is required to
8 live and abide by the laws. So if a
9 jurisdiction you choose to reside in should
10 have some additional municipal requirements
11 you will be required in order to comply
12 with the law of living there, just like you
13 can't get a parking ticket or speeding
14 ticket, to comply with those regulations
15 but I want to make sure you understand
16 because I have seen some defendants who
17 have been confused about this. If you
18 don't, for example, if the Town of Palm
19 Beach has you register that does not take
20 care of your requirement. Your requirement
21 to register with FDLE through the Sheriff's
22 office is separate, distinct and must be
23 done on their form according to their
24 schedule.

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And if my experience the
2 last few months is of any value, they are
3 very serious about enforcing this. They
4 will be tracking you for the rest of your
5 life. Do not move. Do not go -- I don't
6 care when you are done with community
7 control, they need to know exactly where
8 you are and if you go anywhere without
9 registering, they will find and you will be
10 locked up.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. Any questions
13 about that?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Did you read the plea in
16 the circuit court form that describes all
17 the rights you are giving up by entering
18 this plea?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: I think I asked you
21 before, can you read?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you under the
24 influence of alcohol, drugs or medication
25 today?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Normally taking any
3 prescribed medication?

4 THE DEFENDANT: Only for cholesterol.

5 THE COURT: Does that interfere with
6 your mental ability?

7 THE DEFENDANT: No.

8 THE COURT: Do you understand you
9 have an attorney, you have a right to trial
10 by jury, there is not going to be a jury
11 trial. There won't be witnesses called.
12 That your attorney and you would have a
13 right to confront and cross examine, do you
14 understand you have a right to call
15 witnesses of your own and the court would
16 issue subpoenas to compel their attendance
17 just like any other witness called by the
18 State, that you have the right -- absolute
19 right to remain silent and that you would
20 not have to say or do anything at the trial
21 if there were a trial, do you understand
22 those rights?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you understand if you
25 are not a United States citizen your plea

1 could subject you to deportation pursuant
2 to the laws and regulations governing the
3 United States Immigration and
4 Naturalization Service and this court has
5 no jurisdiction or authority in such
6 matters, do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Has anybody threatened
9 you, coerced you or promised you anything
10 other than the terms of this plea to get
11 you to enter this plea?

12 THE DEFENDANT: No.

13 THE COURT: Do you understand this is
14 a plea in criminal court?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: This has -- in criminal
17 court in Palm Beach County, State of
18 Florida. I have absolutely nothing to do
19 with any civil matters or matters in any
20 other jurisdiction, do you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Is this plea in any way
23 tied to any promises or representations by
24 any civil attorneys or other jurisdictions?

25 MR. GOLDBERGER: May we come sidebar

1 on that, Your Honor?

2 THE COURT: It is going to be
3 recorded.

4 MR. GOLDBERGER: That's fine.

5 THE COURT: Defendant needs to
6 approach as well.

7 (Whereupon, there was a conference at
8 the bench.)

9 MR. GOLDBERGER: The reason why I
10 asked to come sidebar, there is a
11 nonprosecution agreement with the United
12 States Attorney's office that triggers as a
13 result of this plea agreement. In other
14 words, they have signed off and said they
15 will not prosecute Mr. Epstein in the
16 Southern District of Florida for any
17 offense upon his successful taking of this
18 plea today. That is a confidential
19 document that the parties have agreed to.
20 Just in an abundance of caution, I wanted
21 to tell the court.

22 THE COURT: I understand, that would
23 also be invalidated should he violate his
24 community control?

25 MR. GOLDBERGER: Absolutely. That

1 nonprosecution agreement --

2 MS. BELOHLAVEK: They spell all that
3 out.

4 THE COURT: Mr. Epstein needs to come
5 closer.

6 Mr. Epstein, your attorney has
7 told me that in addition to everything, we
8 talked about another Inducement, shall we
9 say, to your taking this plea is that the
10 U.S. Attorney for the Southern District of
11 the State of Florida, federal prosecutor,
12 has agreed to a nonprosecution agreement
13 with you, meaning that if you successfully
14 complete probation and do everything you're
15 supposed to, they have, have agreed not to
16 prosecute you federally, did you understand
17 that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And I would view that as
20 a significant inducement in accepting this
21 plea.

22 MS. BELOHLAVEK: They are actually in
23 court here today, also.

24 THE COURT: Okay.

25 MR. GOLDBERGER: And the plea

1 agreement very carefully spelled out if
2 there was a breach that would violate this
3 agreement, so we are well aware of it.

4 THE COURT: Okay. I would request
5 that a sealed copy of that -- Mr. Epstein
6 has signed that document?

7 MR. GOLDBERGER: Yes, I would like to
8 seal the copy.

9 THE COURT: I want a sealed copy of
10 that filed in this case. That is the only
11 other condition of the agreement that is
12 influencing this defendant to make this
13 decision?

14 MR. GOLDBERGER: Absolutely. I think
15 that's the right idea.

16 (Return to open court.)

17 THE COURT: Mr. Epstein, is there
18 anything else?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Because I don't take
21 these pleas unless they are freely and
22 voluntarily made.

23 THE DEFENDANT: I understand that.

24 THE COURT: I also don't want
25 somebody or anybody coming back a year,

1 two years from now saying, oh no, no, they
2 beat me over the head or if there is
3 anything else that is influencing you to
4 make this decision, then I need to know
5 about it.

6 THE DEFENDANT: I understand that.

7 MR. GOLDBERGER: Thank you.

8 THE DEFENDANT: Thank you very much,
9 Your Honor.

10 (Return to open court.)

11 THE COURT: All right, Mr. Epstein,
12 any questions about the rights you are
13 giving up by entering this plea?

14 THE DEFENDANT: No ma'am.

15 THE COURT: State, please give me a
16 factual basis.

17 MS. BELOHLAVEK: In 069454 CF AMB,
18 between August 1, 2004 and October 31,
19 2005, the defendant in Palm Beach County
20 did solicit or procure someone to commit
21 prosecution on three or more occasions.

22 And in 08 CF 9381 CF AMB between
23 August 1, 2004 and October 9, 2005, the
24 defendant did procure a minor under the age
25 of 18 to commit prostitution in Palm Beach

1 County also.

2 THE COURT: I find a sufficient
3 factual basis to support the pleas.

4 Are all of the victims in both of
5 these cases in agreement with the terms of
6 this plea?

7 MS. BELOHLAVEK: I have spoken to
8 several myself and I have spoken to
9 counsel, through counsel as to the other
10 victim, and I believe, yes.

11 THE COURT: And with regard to the
12 victims under age eighteen, is that
13 victim's parents or guardian in agreement
14 with the plea?

15 MS. BELOHLAVEK: That victim is not
16 under age 18 any more and that's why we
17 spoke with her counsel.

18 THE COURT: And she is in agreement
19 with the plea?

20 MS. BELOHLAVEK: Yes.

21 THE COURT: And community control
22 will be given information concerning how to
23 contact these victims?

24 MS. BELOHLAVEK: Yes.

25 THE COURT: Confidentially. That

1 information will not be related to the
2 defendant but will be used exclusively for
3 purposes of verifying compliance with this
4 agreement?

5 MS. BELOHLAVEK: Yes.

6 THE COURT: Is there anything else
7 from anybody else before I accept this
8 plea?

9 MR. GOLDBERGER: No, Your Honor.

10 THE COURT: Mr. Goldberger, if it is
11 your desire, you may enter your client's
12 plea.

13 MR. GOLDBERGER: Thank you, Your
14 Honor, at this time we would withdraw our
15 previously entered pleas of not guilty,
16 enter pleas of guilty pursuant to
17 negotiations with the State.

18 THE COURT: Mr. Epstein, I am going
19 to accept those pleas on your behalf. I
20 find you are intelligent, alert, you
21 understand what is going on here and the
22 consequence of entering this plea, you are
23 doing it freely and voluntarily.

24 Pursuant to the plea, I am waiving
25 a PSI, I will sentence you at this time

1 pursuant to it. I will adjudicate you
2 guilty of felony solicitation of
3 prostitution, a third degree felony, case
4 number 06 CF 00945A -- 454 AMB, and
5 procuring a person under 18 for
6 prostitution, a second degree felony 08 CF
7 009381AMB.

8 With respect to the solicitation
9 of prosecution, I will sentence you to
10 twelve months in the Palm Beach County
11 detention facility with credit for the one
12 day served.

13 With respect to 08 CF 009381, I
14 will sentence you to six months in the Palm
15 Beach County detention facility, with
16 credit for the one day served. That six
17 month sentence is to be served consecutive
18 to the twelve month sentence.

19 Following the six month sentence
20 you will be placed on 12 months of
21 community control. That will be on both
22 cases, I assume, to run concurrently,
23 correct?

24 MS. BELOHLAVEK: Only on the 08 case.

25 THE COURT: Only on the second degree

1 felony?

2 MS. BELOHLAVEK: Correct, the one
3 that designates him a sexual offender.

4 THE COURT: Okay. So only on case
5 number 08 CF 009381AMB will you be on one
6 year community control which would then
7 invoke a potential penalty of fifteen years
8 were you to violate.

9 The special conditions are that
10 you are to have no unsupervised contact
11 with minors and the supervising adult must
12 be approved by the Department of
13 Corrections. You are to be designated a
14 sexual offender pursuant to Florida Statute
15 943.0435 and you must abide by all
16 requirements of that statute which I have
17 read and we have discussed.

18 You will remain confined to your
19 residence except one half hour before and
20 after your approved employment, community
21 service work or other activities approved
22 by your probation officer. You will
23 maintain an hourly accounting of all your
24 activity on a daily log which you submit to
25 the supervising officer upon request.

1 You will be residing at 358 E1
2 Brillo Way, Palm Beach, Florida 33480.
3 Should you desire to move or go to a
4 different location upon release from
5 custody, you will get preapproval of that
6 location from the Department of
7 Corrections. You will have to contact your
8 community control officer a minimum of once
9 a week, it can be more often at their
10 discretion and you are to work at the
11 Florida Science Foundation at 250
12 Australian Avenue in West Palm Beach,
13 Florida. You will submit to a mandatory
14 curfew of 10 p.m. to 6 a.m.

15 You shall not live within a
16 thousand feet of a school, day care center,
17 park, playground or other place where
18 children congregate. You shall not have
19 any contact with the victims, directly or
20 indirectly including through a third person
21 unless approved by victim's therapist and
22 the sentencing court.

23 You shall not work for pay or as a
24 volunteer at any school, day care center
25 park, play ground, other place where

1 children may congregate. You shall not
2 view, own or possess any obscene
3 pornographic or sexually stimulating or
4 visual, auditory material including
5 telephone, electronic media, computer
6 programs, computer services that are
7 relevant to deviant behavior.

8 You shall submit two specimens of
9 blood to Florida Department of Law
10 Enforcement to be registered with the DNA
11 data bank. You shall submit to a
12 warrantless search by the probation officer
13 or community control officer of your
14 person, residence or vehicle.

15 You shall maintain a driving log.
16 You shall not drive a motor vehicle while
17 alone without prior approval of the
18 supervising officer.

19 You shall submit to, at
20 probationer or community control expense a
21 HIV test, the result of which is to be
22 released to the victims or victim's parent
23 or guardian. That has to be done within 48
24 hours.

25 You shall not obtain or a use post

1 office box without the prior approval of
2 the supervising officer.

3 MS. BELOHLAVEK: You forgot one that
4 you may not possess, own or view sexually
5 stimulating -- I don't believe you read
6 that outloud just now.

7 THE COURT: Yes, I did.

8 MS. BELOHLAVEK: I'm sorry, I didn't
9 hear it. I just wanted to make sure.

10 THE COURT: And the warrantless
11 search by the community control officer of
12 the person, residence or vehicle --
13 understand the person, residence or vehicle
14 includes anything you might possess like
15 computer, a cell phone and whatever other
16 elaborate devices there are to communicate
17 electronically these days, okay. Good
18 luck.

19 MR. GOLDBERGER: Thank you.

20 MS. BELOHLAVEK: Thank you.

21 THE COURT: Is there a judgment?

22 MR. GOLDBERGER: Yes, there should be
23 judgments.

24 THE COURT: Was there a condition of
25 community control that he pay or is he

1 paying it?

2 MR. GOLDBERGER: Actually there is a
3 cash bond posted, court cost can be
4 deducted from the cash bond.

5 THE COURT: \$574 is the total?

6 MS. BELOHLAVEK: Correct.

7 THE COURT: Is that to cover both
8 cases?

9 MR. GOLDBERGER: Yes.

10 THE COURT: Thank you.

11 MR. GOLDBERGER: Thank you, Your
12 Honor.

13 (Whereupon, at 9:48 o'clock a.m. the
14 proceedings before the Court concluded.)
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C E R T I F I C A T E

1
2
3 THE STATE OF FLORIDA,
4 COUNTY OF PALM BEACH.

5 I, PHYLLIS A. DAMES, Official Court
6 Reporter for the Fifteenth Judicial Circuit,
7 Criminal Division, in and for Palm Beach County,
8 Florida; do hereby certify that I was authorized
9 to and did report the foregoing proceedings before
10 the Court at the time and place aforesaid; and
11 that the preceding pages numbered from 1 through
12 49, inclusive, represent a true and accurate
13 transcription of my stenonotes taken at said
14 proceedings.

15 IN WITNESS WHEREOF, I have hereunto
16 affixed my official signature this 19th day of
17 July, 2008.

18
19
20
21 _____
PHYLLIS A. DAMES
22
23
24
25

PHYLLIS A. DAMES, OFFICIAL COURT REPORTER

KEDAC TEL 1 KRGE - DOCUMENT ABAND

**IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN**

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

- (1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;
- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of FL. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and
 - (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.
3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.
4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.
5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.
6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.
8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.
10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.
11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.
13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to [REDACTED]

[REDACTED] Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

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By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____

ASSISTANT U.S. ATTORNEY

Dated: 9/24/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

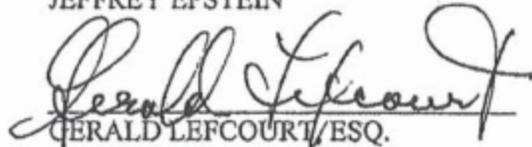
Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

Dated: 9/24/07



GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
[REDACTED]
ASSISTANT U.S. ATTORNEY

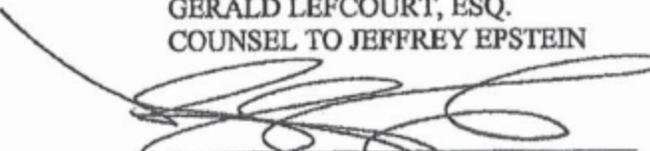
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

- 7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.
- 7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, *infra*.
- 7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

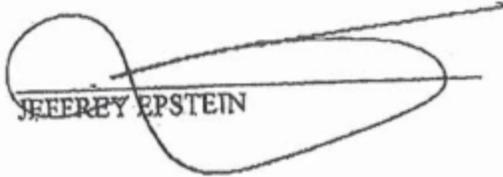
By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: 
ASSISTANT U.S. ATTORNEY

Dated: 10/29/07


JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

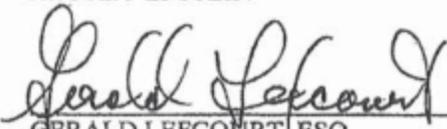
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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:  _____
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN


GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10/29/07

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____

ASSISTANT U.S. ATTORNEY

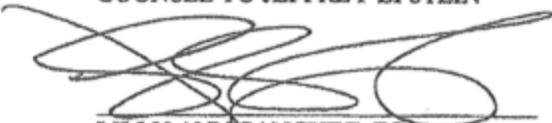
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN



U.S. Department of Justice

United States Attorney
Southern District of Florida

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9100 - Telephone
(305) 530-6444 - Facsimile

December 19, 2007

DELIVERY BY FACSIMILE

Lilly Ann Sanchez
Fowler White Burnett, PA



Re: Jeffrey Epstein

Dear Ms. Sanchez:

I write to follow up on the December 14th meeting between defense counsel and the Epstein prosecutors, as well as our First Assistant, the Miami FBI Special Agent in Charge and myself.



² Section 2255 provides that: "[a]ny person who, while a minor, was a victim of a violation of [enumerated sections of Title 18] and who suffers personal injury as a result of such violation . . . may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee."

[REDACTED]

With this in mind, I have considered defense counsel arguments regarding the Section 2255 portions of the Agreement. As I previously observed, our intent has been to place the victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less. From our meeting, it appears that the defense agrees that this was the intent. During the course of *negotiations that intent was reduced to writing in Paragraphs 7 and 8, which as I wrote previously,* appear far from simple to understand. I would thus propose that we solve our disagreements over interpretations by saying precisely what we mean, in a simple fashion. I would replace Paragraphs 7 and 8 with the following language:

“Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein’s attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

[REDACTED]

**IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN**

NON-PROSECUTION AGREEMENT

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- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and
 - (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.
3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.
4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.
5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.
6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.
8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.
10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.
11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.
13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to [REDACTED]

[REDACTED] Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

///

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///

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____

ASSISTANT U.S. ATTORNEY

Dated: 9/24/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

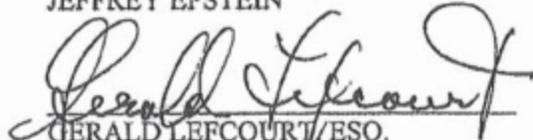
Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

Dated: 9/24/07



GERALD LEFCOURT/ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

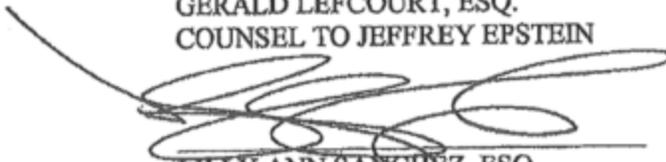
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

- 7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.
- 7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, *infra*.
- 7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

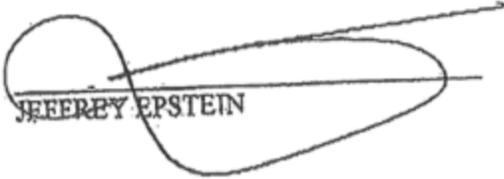
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

ASSISTANT U.S. ATTORNEY

Dated: 10/29/07



JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

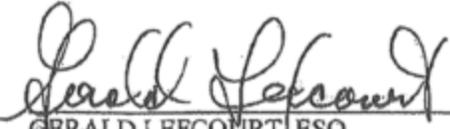
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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10/29/07

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
ASSISTANT U.S. ATTORNEY

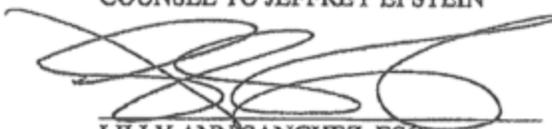
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN



U.S. Department of Justice

United States Attorney
Southern District of Florida

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9100 - Telephone
(305) 530-6444 - Facsimile

December 19, 2007

DELIVERY BY FACSIMILE

Lilly Ann Sanchez
Fowler White Burnett, PA
1395 Brickell Ave. 14th Floor
[REDACTED]

Re: Jeffrey Epstein

Dear Ms. Sanchez:

I write to follow up on the December 14th meeting between defense counsel and the Epstein prosecutors, as well as our First Assistant, the Miami FBI Special Agent in Charge and myself.

² Section 2255 provides that: "[a]ny person who, while a minor, was a victim of a violation of [enumerated sections of Title 18] and who suffers personal injury as a result of such violation . . . may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee."

[REDACTED]

With this in mind, I have considered defense counsel arguments regarding the Section 2255 portions of the Agreement. As I previously observed, our intent has been to place the victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less. From our meeting, it appears that the defense agrees that this was the intent. During the course of negotiations that intent was reduced to writing in Paragraphs 7 and 8, which as I wrote previously, appear far from simple to understand. I would thus propose that we solve our disagreements over interpretations by saying precisely what we mean, in a simple fashion. I would replace Paragraphs 7 and 8 with the following language:

“Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein’s attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

[REDACTED]

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA.

CRIMINAL DIVISION "W"

IN RE: IN-HOUSE ARREST AND
WORK RELEASE PROGRAMS
DIVISION "W" CASES

AMENDED ORDER RE: IN-HOUSE ARREST AND WORK RELEASE

The Sheriff of Palm Beach County is authorized to establish criteria for the consideration and review of inmates requesting the Work Release and In-House Arrest Programs while serving time in the Palm Beach County Detention Center or Stockade having been sentenced in this Division. Persons admitted to either program shall be at the sole discretion of the Sheriff and his staff in determining their suitability.

The undersigned takes no position with respect to the eligibility of any inmate sentenced in this Division unless specifically stated at time of sentencing.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this the 11th day of March, 2005, *nunc pro tunc* to February 17, 2005.

SIGNED AND DATED

MAR 11 2005

SANDRA K. McSORLEY
Circuit Judge

JUDGE SANDRA K. McSORLEY

copies furnished:

State Attorney for Division "W", *via inter-office mail*

Public Defender for Division "W", *via inter-office mail*

D/S E. Sobrino, 6



33 FL ADC 33-601.602
 Rule 33-601.602, F.A.C.
 Fla. Admin. Code Ann. r. 33-601.602

Page 1

C
FLORIDA ADMINISTRATIVE CODE AN-
NOTATED
TITLE 33. DEPARTMENT OF CORREC-
TIONS
CHAPTER 33-601. CLASSIFICATION AND
CENTRAL RECORDS

Current with rules included in the January 11, 2007
 issue of the Florida

Administrative Weekly; see scope message for spe-
 cific rules in effect.

33-601.602. Community Release Programs.

(1) Definitions.

(a) Community Release -- Any program which al-
 lows inmates to work at paid employment or parti-
 cipate in education, training, or substance abuse
 treatment programs in a work release center, con-
 tract community work release facility, or com-
 munity contract facility, or voluntarily work with a
 public or nonprofit agency in the community.

(b) Work Release -- The portion of the community
 release program which allows inmates to work at
 paid employment in the community while continu-
 ing as inmates of the facility where they are con-
 fined.

(c) Community Study Release -- The portion of the
 community release program which allows inmates
 to attend an educational or vocational facility or
 participate in a training program in the community
 while continuing as inmates of the facility where
 they are confined.

(d) Community Volunteer Service -- An activity
 which allows inmates housed at a work release cen-
 ter or contract facility to voluntarily work with a
 governmental or nonprofit agency in the com-
 munity.

(e) Modality II -- A community based residential
 substance abuse treatment program for inmates.

(f) Net Earnings -- Gross pay less withholding tax,
 social security deductions, and any legally required
 court ordered civil deductions.

(g) State Classification Office -- A staff member at
 the central office level who is responsible for the
 review of inmate classification decisions. Duties in-
 clude approving or rejecting Institutional Classifi-
 cation Team (ICT) recommendations.

(h) Work Release Center -- Refers to a facility
 where a community based transition program is
 conducted for approved community custody in-
 mates prior to release from custody.

(i) Work Release Inmate Monitoring System
 (WRIMS) -- A web site application used by work
 release facility staff to record information related to
 an inmate's participation in community work re-
 lease.

(2) Inmate Conduct While on Community Release.

(a) During the inmate orientation process, which
 shall occur within three days of arrival at a com-
 munity work release center, inmates will be instruc-
 ted of the following conduct requirements. Upon
 completion of the orientation program, the inmate
 shall be given a Certificate of Orientation, Form
 DC6-126. Form DC6-126 is incorporated in subsec-
 tion (16) of this rule.

1. Directly and promptly proceed to and return
 from their destination using the approved method of
 transportation and route designated by the correc-
 tional officer major or facility director of a contract
 facility.

2. Remain within the area designated for their
 community release.

3. Return to the facility to which assigned at the
 scheduled time.

4. Return to the facility to which assigned imme-

C**Effective:[See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title XLVII. Criminal Procedure and Corrections (Chapters 900-999) (Refs & Annos)

Chapter 951. County and Municipal Prisoners (Refs & Annos)

951.24. Extend the limits of confinement for county prisoners

(1) Any county shall be deemed to have a work-release program upon the motion of that county's board of county commissioners which shall require the concurrence of the sheriff of the county.

(2)(a) Whenever punishment by imprisonment in the county jail is prescribed, the sentencing court, in its discretion, may at any time during the sentence consider granting the privilege to the prisoner to leave the confines of the jail or county facility during necessary and reasonable hours, subject to the rules and regulations prescribed by the court, to work at paid employment, conduct his or her own business or profession, or participate in an educational or vocational training program, while continuing as an inmate of the county facility in which he or she shall be confined except during the period of his or her authorized release.

(b) Any prisoner, at the time of sentencing or thereafter, may request the court in writing for the privilege of being placed on the work-release program. The Department of Corrections, upon the request of the court, is authorized to conduct such investigations as are necessary and to make recommendations to the court pertaining to the suitability of the plan for the prisoner and to supervise such prisoner if released under this program. Such a release may be granted by the court with the advice and consent of the sheriff and upon agreement by the prisoner. The court may withdraw the privilege at any time, with or without notice.

(c) No person convicted of sexual battery pursuant to s. 794.011 is eligible for any work-release program or any other extension of the limits of confinement under this section.

(3)(a) The wages or salary of prisoners employed under this program may be disbursed by the sheriff pursuant to court order for the following purposes in the order listed:

1. Board of the prisoner.
2. Necessary travel expense to and from work and other necessary incidental expenses of the prisoner.
3. Support of the prisoner's legal dependents.

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4. Payment, either in full or ratable, of the prisoner's obligations acknowledged by him or her in writing or which have been reduced to judgment.

5. The balance to the prisoner upon discharge from his or her sentence, or until an order of the court is entered declaring that the prisoner has left lawful confinement, declaring that the balance remaining is forfeited, and directing the sheriff to deposit the funds in the general fund of the county to be spent for general purposes.

(b) The sheriff may collect from a prisoner the wages or salary earned pursuant to this program. The sheriff shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages and salaries shall not be subject to garnishment in the hands of either the employer or the sheriff during the prisoner's sentence and shall be disbursed only as provided in this section.

(c) Every prisoner gainfully employed is liable for the cost of his or her board in the jail as fixed by the county. The sheriff shall charge the prisoner's account, if he or she has one, for such board. If the prisoner is gainfully self-employed he or she shall deposit with the sheriff an amount determined by the court sufficient to accomplish the provisions of subparagraphs (a)1.-5., in default of which his or her privileges under this section are automatically forfeited.

(d) The board of county commissioners of any county may, upon the recommendation of the sheriff, authorize the person in charge of a county stockade or workcamp to implement paragraphs (a), (b), and (c), when such facility is not directly under the sheriff.

(4) Any prisoner who willfully fails to remain within the extended limits of his or her confinement or to return within the time prescribed to the place of confinement shall be deemed an escapee from custody and shall be subject to punishment as prescribed by law.

(5) Exchange for the purpose of work-release of county prisoners among other counties of the state that have implemented work-release programs is hereby authorized, with the concurrence of the sheriffs of the involved counties. For the purpose of this subsection, upon exchange, the prisoner shall be deemed a prisoner of the county where confined unless or until he or she is removed from extended confinement status. Prisoners from other jurisdictions, serving lawful sentences, may also be received into a county work-release program as above provided.

(6) In carrying out the purpose of this section, any board of county commissioners may provide in its annual budget for payment to the Department of Corrections out of funds collected from those being supervised such amounts as are agreed upon by the board and department to be reasonable and necessary. County judges are hereby authorized to levy \$10 per month upon those supervised for purposes of paying for supervision under this act.

CREDIT(S)

STATE OF FLORIDA
Plaintiff

IN THE FIFTEENTH JUDICIAL
CIRCUIT COURT, IN AND FOR
PALM BEACH COUNTY

-VS-

JEFFREY E. EPSTEIN
Defendant

CASE NUMBER 502008CF009381AXXXMB
DIVISION MCSORLEY "W"
DC NUMBER W35755
CIRCUIT NUMBER: 15-4/JAIL SPLIT

ORDER OF COMMUNITY CONTROL I

This cause coming before the Court to be heard, and you, the defendant, being now present before the court, and you having

- entered a plea of guilty to
- entered a plea of nolo contendere to
- been found guilty by jury verdict of
- been found guilty by the court trying the case without a jury of

Count 1: PROCURE PERSON UNDER AGE OF 18 FOR PROSTITUTION

SECTION 1: JUDGMENT OF GUILT

- The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on Probation I for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: ORDER WITHHOLDING ADJUDICATION

- Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on Probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 3: INCARCERATION DURING PORTYON OF SUPERVISION SENTENCE

It is hereby ordered and adjudged that you be:

- committed to the Department of Corrections
- or
- confined in the County Jail for a term of _____ with credit for _____ jail time. After you have served _____ of the term, you shall be placed on Probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.
- or
- confined in the County Jail for a term of SIX (6) MONTHS AS TO COUNT 1 FOLLOWED BY TWELVE (12) MONTHS COMMUNITY CONTROL I CONSECUTIVE TO THE (12) MONTH SENTENCE IN CASE# 2008CF00945AAMB with credit for ONE (1) DAY jail time, as a special condition of supervision.

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

2008 JUL 21 PM 4: 55

FILED

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

IT IS FURTHER ORDERED that you shall comply with the following standard conditions of supervision as provided by Florida law:

- (1) You will report to the probation office as directed. Not later than the fifth day of each month, unless otherwise directed, you will make a full and truthful report to your officer on the form provided for that purpose.
- (2) You will pay the State of Florida the amount of \$50.00 per month, as well as 4% surcharge, toward the cost of your supervision in accordance with s. 948.09, F.S., unless otherwise exempted in compliance with Florida Statutes.
- (3) You will remain in a specified place. You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.
- (4) You will not possess, carry or own any firearm or weapon, unless authorized by the court.
- (5) You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your probation/community control.
- (6) You will not associate with any person engaged in any criminal activity.
- (7) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs or other dangerous substances are unlawfully sold, dispensed or used.
- (8) You will work diligently at a lawful occupation, advise your employer of your probation status, and support any dependents to the best of your ability, as directed by your officer.
- (9) You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.
- (10) You will pay restitution, court costs, and/or fees in accordance with special conditions imposed or in accordance with the attached orders.
- (11) You will submit to random testing as directed by your officer or the professional staff of the treatment center where he/she is receiving treatment to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.
- (12) You will submit two biological specimens, as directed by your officer, for DNA analysis as prescribed in ss. 943.325 and 948.014, F.S.
- (13) You will report in person within 72 hours of your release from incarceration to the probation office in PALM BEACH County, Florida, unless otherwise instructed by the court or department. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at 3444 SOUTH CONGRESS AVENUE, LAKE WORTH, FL 33461.

STATE OF FLORIDA
Plaintiff

IN THE FIFTEENTH JUDICIAL
CIRCUIT COURT, IN AND FOR
PALM BEACH COUNTY

-VS-

JEFFREY E. EPSTEIN
Defendant

CASE NUMBER 502008CF009381AXXXMB
DIVISION MCSORLEY "W"
DC NUMBER W35755
CIRCUIT NUMBER: 15-4/JAIL SPLIT

ORDER OF COMMUNITY CONTROL I

This cause coming before the Court to be heard, and you, the defendant, being now present before the court, and you having

- entered a plea of guilty to been found guilty by jury verdict of
- entered a plea of nolo contendere to been found guilty by the court trying the case without a jury of

Count 1: PROCURE PERSON UNDER AGE OF 18 FOR PROSTITUTION

SECTION 1: JUDGMENT OF GUILT

- The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on Probation I for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: ORDER WITHHOLDING ADJUDICATION

- Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on Probation for a period of ___ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 3: INCARCERATION DURING PORTION OF SUPERVISION SENTENCE

It is hereby ordered and adjudged that you be:

- committed to the Department of Corrections or confined in the County Jail for a term of _____ with credit for _____ jail time. After you have served _____ of the term, you shall be placed on Probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.
- confined in the County Jail for a term of SIX (6) MONTHS AS TO COUNT 1 FOLLOWED BY TWELVE (12) MONTHS COMMUNITY CONTROL I CONSECUTIVE TO THE (12) MONTH SENTENCE IN CASE# 2008CF00945AAMB with credit for ONE (1) DAY jail time, as a special condition of supervision.

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

2008 JUL 21 PM 4: 55

FILED

STATE OF FLORIDA
Plaintiff

IN THE FIFTEENTH JUDICIAL
CIRCUIT COURT, IN AND FOR
PALM BEACH COUNTY

-VS-

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Defendant

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SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

2008 JUL 21 PM 4: 55

FILED

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

SPECIAL CONDITIONS

1. You must undergo a Drug and Alcohol evaluation and, if treatment is deemed necessary, you must successfully complete the treatment, and be responsible for the payment of any costs incurred while receiving said evaluation and treatment, unless waived by the court.
Additional instructions ordered: _____

2. You will make restitution to the following victim(s), as directed by the court, until the obligation is paid in full:
NAME: _____
TOTAL AMOUNT: \$ _____
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: _____

NAME: _____
TOTAL AMOUNT: \$ _____
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: _____

SPECIAL CONDITIONS -- CONTINUED

3. You will enter the Department of Corrections Non-Secure Drug Treatment Program or other residential treatment program/Probation and Restitution Center for a period of successful completion as approved by your officer. You are to remain until you successfully complete said Program and Aftercare. You are to comply with all Rules and Regulations of the Program. You shall be confined in the county jail until placement in said program, and if you are confined in the jail, the Sheriff will transport you to said program.

4. You will abstain entirely from the use of alcohol and/or illegal drugs, and you will not associate with anyone who is illegally using drugs or consuming alcohol.

5. You will submit to urinalysis testing on a monthly basis to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.

6. You will not visit any establishment where the primary business is the sale and dispensing of alcoholic beverages.

7. You will successfully complete _____ hours of community service at a rate of _____, at a work site approved by your officer.
Additional instructions ordered: _____

8. You will remain at your residence between 10 p.m. and 6 a.m. due to a curfew imposed, unless otherwise directed by the court.

9. You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ _____ per month for the cost of the monitoring service, unless otherwise directed by the court.

10. You will not associate with _____ during the period of supervision.

11. You will have no contact (direct or indirect) with the victim or the victim's family during the period of supervision.

12. You will have no contact (direct or indirect) with _____ during the period of supervision.

13. You will maintain full time employment or attend school/vocational school full time or a combination of school/work during the term of your supervision.

14. You will make a good faith effort toward completing basic or functional literacy skills or a high school equivalency diploma.

15. You will successfully complete the Probation & Restitution Program, abiding by all rules and regulations.

JEFFREY EPSTEIN
CASE#502008CF009381AXXOMB

- 16. You will attend Alcoholics Anonymous or Narcotics Anonymous meetings at least monthly, unless otherwise directed by the court.
- 17. You must successfully complete Anger Management, and be responsible for the payment of any costs incurred while receiving said treatment, unless waived. If convicted of a Domestic Violence offense, as defined in s. 741.28, F.S., you must attend and successfully complete a batterer's intervention program, unless otherwise directed by the court.
Additional instructions ordered: _____
- 18. You will attend an HIV/AIDS Awareness Program consisting of a class of not less than two (2) hours or more than four (4) hours in length, the cost for which will be paid by you.
- 19. You shall submit your person, property, place of residence, vehicle or personal effects to a warrantless search at any time, by any probation or community control officer or any law enforcement officer.
- 20. DEFENDANT MUST REGISTER AS A SEXUAL OFFENDER WITHIN 48 HOURS OF RELEASE
- 21. AS A SPECIAL CONDITION OF HIS COMMUNITY CONTROL, THE DEFENDANT IS TO HAVE NO UNSUPERVISED CONTACT WITH MINORS, AND THE SUPERVISING ADULT MUST BE APPROVED BY THE DEPARTMENT OF CORRECTIONS
- 22. THE DEFENDANT IS DESIGNATED AS A SEXUAL OFFENDER PURSUANT TO FLORIDA STATUTE 943.05 AND MUST ABIDE BY ALL THE CORRESPONDING REQUIREMENTS OF THE STATUTE, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN
- 23. DEFENDANT MUST PROVIDE A DNA SAMPLE IN COURT AT THE TIME OF THIS PLEA.
- 24. SPECIFIED CONTACT WITH THE PAROLE AND PROBATION OFFICER
- 25. CONFINEMENT TO AN AGREED-UPON RESIDENCE DURING HOURS AWAY FROM EMPLOYMENT AND PUBLIC SERVICE ACTIVITIES
- 25. MANDATORY PUBLIC SERVICE
- 26. SUPERVISION, BY THE DEPARTMENT OF CORRECTIONS BY MEANS OF AN ELECTRONIC MONITORING DEVICE OR SYSTEM
- 27. ELECTRONIC MONITORING 24 HOURS PER DAY
- 28. CONFINEMENT TO A DESIGNATED RESIDENCE DURING DESIGNATED HOURS

AND, IF PLACED ON DRUG OFFENDER PROBATION, YOU WILL COMPLY WITH THE FOLLOWING CONDITION OF SUPERVISION IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

(14) You will participate in a specialized drug treatment program, either as an in-patient or out patient, as recommended by the treatment provider. You will attend all counseling sessions, submit to random urinalysis and, if an in-patient, you will comply with all operating rules, regulations and procedures of the treatment facility. You will pay for all costs associated with treatment and testing unless otherwise directed.
Additional instructions ordered: _____

(15) You will remain at your residence between _____ p.m. and _____ a.m. due to a curfew imposed, unless otherwise directed by the court.

AND, IF PLACED ON COMMUNITY CONTROL, YOU WILL COMPLY WITH THE FOLLOWING CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

- (14) You will report to your officer as directed, at least one time a week, unless you have written consent otherwise.
- (15) You will remain confined to your approved residence except for one half hour before and after your approved employment, public service work, or any other special activities approved by your officer.
- (16) You will maintain an hourly accounting of all your activities on a daily log, which you will submit to your officer on request.
- (17) You will successfully complete _____ hours of community service at a rate of _____, at a work site approved by your officer.
Additional instructions ordered: _____
- (18) You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ _____ per month for the cost of the monitoring service, unless otherwise directed by the court.

AND, IF PLACED ON PROBATION OR COMMUNITY CONTROL FOR A SEX OFFENSE PROVIDED IN CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145, COMMITTED ON OR AFTER OCTOBER 1, 1995 YOU WILL COMPLY WITH THE FOLLOWING STANDARD SEX OFFENDER CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

- (14) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.
- (15) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.
- (16) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the offender's own expense. If a qualified practitioner is not available within a 50-mile radius of the offender's residence, the offender shall participate in other appropriate therapy.
- (17) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.
- (18) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time.
- (19) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to any school, day care center, park, playground, pet store, library, zoo, theme park, or mall.
- (20) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.
- (21) A requirement that the offender submit two specimens of blood or other approved biological specimens to the Florida Department of Law Enforcement to be registered with the DNA data bank.
- (22) A requirement that the offender make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.
- (23) Submission to a warrantless search by the community control or probation officer of the offender's person, residence, or vehicle.

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

EFFECTIVE FOR PROBATIONER OR COMMUNITY CONTROLLEE WHOSE CRIME WAS COMMITTED ON OR AFTER OCTOBER 1, 1997, AND WHO IS PLACED ON COMMUNITY CONTROL OR SEX OFFENDER PROBATION FOR A VIOLATION OF CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145, IN ADDITION TO ANY OTHER PROVISION OF THIS SECTION, YOU MUST COMPLY WITH THE FOLLOWING CONDITIONS OF SUPERVISION:

- (24) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid by the sex offender.
- (25) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.
- (26) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.
- (27) If there was sexual contact, a submission to, at the offender's expense, an HIV test with the results to be released to the victim and/or the victim's parent or guardian.
- (28) Electronic monitoring when deemed necessary by the probation officer and supervisor, and ordered by the court at the recommendation of the Department of Corrections.
- (29) Effective for an offender whose crime was committed on or after July 1, 2005, and who are placed on supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.
- (30) Effective for offenders whose crime was committed on or after September 1, 2005, there is hereby imposed, in addition to any other provision in this section, mandatory electronic monitoring as a condition of supervision for those who:
- Are placed on supervision for a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older; or
 - Are designated as a sexual predator pursuant to s. 775.21; or
 - Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.

You are hereby placed on notice that should you violate your probation or community control, and the conditions set forth in s. 948.063(1) or (2) are satisfied, whether your probation or community control is revoked or not revoked, you shall be placed on electronic monitoring in accordance with F.S. 948.063.

YOU ARE HEREBY PLACED ON NOTICE that the court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication of guilt was withheld, and impose any sentence that it might have imposed before placing you on probation or require you to serve the balance of the sentence.

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

IT IS FURTHER ORDERED that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. (This paragraph applies only if section 1 or section 2 is checked.)

IT IS FURTHER ORDERED that the clerk of this court file this order in the clerk's office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, on 11/25/08

NUNC PRO TUNC 06-30-2008

Sandra K. McSorley
Sandra K. McSorley, Circuit Judge

I acknowledge receipt of a copy of this order and that the conditions have been explained to me and I agree to abide by them.

Date: _____

Defendant _____

Instructed by: _____
Supervising Officer

ep/07-02-08

JEFFREY EPSTEIN
CASE#S02008CF009381AXXXMB

COURT ORDERED PAYMENTS

CHECK ALL THAT ARE ORDERED:

FINES

- \$ _____ Total of fines assessed in sentence, pursuant to s. 775.083 (1)(a) through (g) or Chapter 316, F.S.
- \$ _____ Statutorily mandated 5% surcharge/cost if fine assessed (on first line) pursuant to s. 938.04, F.S.
- \$ 20.00 Crime Stopper's Trust Fund pursuant to s. 938.06(1), F.S. Statutorily mandated if a fine is imposed

MANDATORY COSTS IN ALL CASES

- \$200.00 Additional court cost for felony offense, pursuant to s. 938.05(1)(a), F.S.
- \$ 50.00 Additional court cost for misdemeanor or criminal traffic offense, pursuant to s. 938.05(1)(b) or (c), F.S.
- \$ 50.00 Crimes Compensation Trust Fund pursuant to s. 938.03(1), F.S.
- \$ 50.00 County Crime Prevention Fund pursuant to s. 775.083(2), F.S.
- \$ 3.00 Additional Court Costs Clearing Trust Fund pursuant to s. 938.01(1), F.S.
- \$ 2.00 Per month for each month of supervision for Training Trust Fund Surcharge, pursuant to s. 948.09, F.S.

MANDATORY COSTS IN SPECIFIC TYPES OF CASES

- \$151.00 Rape Crisis Program Trust Fund, pursuant to s. 938.085, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, or 794.011, F.S.
- \$201.00 Domestic Violence Trust Fund, pursuant to s. 938.08, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, 794.011, or any offense of Domestic Violence described in s. 741.28, F.S.
- \$101.00 Certain Crimes Against Minors, pursuant to s. 938.10(1), F.S. for any violations of s. 784.085, chapter 787, chapter 794, s. 796.03, s. 800.04, chapter 827, s. 847.0145, or s. 985.701, F.S.
- \$135.00 DUI Court Costs, pursuant to s. 938.07, F.S. for any violations of ss. 316.193 or 327.35, F.S.
- \$ 3.00 State Agency Law Enforcement Radio System Trust Fund, pursuant to s. 318.18(17), F.S. for any violations of offenses listed in s. 318.17 including ss. 316.1935, 316.027, 316.061, 877.111, chapter 893, ss. 316.193, 316.192, 316.067, 316.072(3), 316.545(1), or any other offense in chapter 316 which is classified as a criminal violation.

MANDATORY COURT COSTS AUTHORIZED BY LOCAL GOVERNMENTAL ENTITIES

- \$ 2.00 Criminal Justice Education by Municipalities and Counties, pursuant to s. 938.15, F.S.
- \$65.00 Additional court costs for local requirements and other county funded programs pursuant to s. 939.185(1)(a), F.S.
- \$ 3.00 Teen Court pursuant to s. 938.19(2), F.S.

DISCRETIONARY

- \$ 1.00 Per month during the term of supervision to the following nonprofit organization established for the sole purpose of supplementing the rehabilitative efforts of the Department of Corrections, pursuant to s. 948.039(2), F.S.:
- \$40.00 Public Defender Application Fee, if not previously collected or waived, pursuant to s. 27.52 and s. 938.29, F.S.
- \$ _____ Public Defender Fees and Costs, pursuant to s. 938.29, F.S. as determined locally.
- \$50.00 Prosecution/Investigative Costs, pursuant to s. 938.27, F.S.

Other: _____

Other: _____

DISCRETIONARY COSTS FOR SPECIFIC TYPES OF CASES

- \$50.00 County Alcohol and Other Drug Abuse Trust Fund, pursuant to s. 938.21 and s. 938.23, F.S. for violations of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 367, or chapter 568, F.S.
- \$100.00 Operating Trust Fund of the FDLE, pursuant to s. 938.25, F.S. for violations of s. 893.13 offenses

* TOTAL \$ 473.00

PAYMENT IS TO BE MADE THROUGH AND PAYABLE TO: Department of Corrections or Clerk of Court

(If collected by the Department of Corrections, a surcharge of 4% will be added to all payments ordered by the court, pursuant to s. 945.31, F.S.)

- Court Costs/Fines Waived
- Court Costs/Fines in the amount of _____ converted to _____ community service hours
- Court Costs/Fines in the amount of _____ reduced to civil judgment.

SPECIFIC INSTRUCTIONS FOR PAYMENT: _____

CASE NO

502006CF007454AXXX

ST OF FL VS.

JEFFREY E. EPSTEIN

241

FELONY OFFER TO COMMIT PROSTITUTION

ARREST # 2006032744 BOND# 00073142 TYPE/CB 3,000.00

Date 3/10/08 6/2006 Judge [Signature] Cr. Rep. [Signature]
ASA [Signature] DC [Signature]
Def. Pres / Not Pres. W / W/O Def. Co. [Signature] Esq / PD - Pres / Not Pres.

Before the Court for: [Signature]
[] Granted [] Denied [] With / Without Prejudice [] Withdrawn [] Court Reserves Ruling [] Written Order to Follow

[] Warrant [] Ordered [] Recalled [] Bond Set at \$ [] See Below [] Also Covers [] Sp Cond
[] Bond Forf [] OR: Disch / Revoked / Reinstated [] Bond: Disch / Revoked [] SOR: Disch / Revoked / Reinstated
[] Bond Forf Vacated [] Previous Bond Reinstated, if Bondsman agrees [] State failed to file charges [] Released O.R. / S.O.R.

[] Deft Indigent [] PD Appt [] Hrg only PD Pres [] Court Appts
Evaluation for: [] Drug Farm [] DOC Non-Secure Bed by [] w/input from DJJ / Staffing
[] Pre-Plea [] PSI ordered by/within [] days [] Referred to: PTI / SAAP / PADD [] Case placed on the absentee docket

DEFT ENTERED A PLEA OF [] NOT GUILTY [] GUILTY [] NO CONTEST [] BEST INTEREST [] TO THE COURT

As Charged - Cts [] Sw & Test [] Adv of Rts [] Waived PSI Lesser Cts Lesser Charge

[] ADJ GUILTY as Charged as to Cts Lesser Cts Lesser Charge
[] FOUND GUILTY as Charged as to Cts [] SENT W/HELD as to Cts

[] ADJ W/HELD as to Cts [] FOUND AND ADJUDICATED DELINQUENT as to Cts [] Dispo Order to follow / Held
[] FOUND & ADJ NOT GUILTY as to Cts [] Dismiss [] Nolle Prose Cts

Prob / Comm Control: [] Revoked [] Reinstated [] Modified [] Term. Successfully / Unsuccessfully

[] Stip/Found: (violent) Habitual Off. 775.084 [] Stip/Found: Sexual Offender / Sexual Predator [] Stip/Found: P.R.R.

SENTENCE: PBCJ / MOS Cts: / DOC: Cts:
PBCJ: Cts: / DOC: Cts:

[] W/Credit for [] Days / Mes. / Yrs. [] Deft Remanded [] Deft to remain on same rel. status pending sent.

[] Execution of Sentence Stayed [] Sentence Suspended [] Time served as to Cts
[] Youthful Off [] Habitual Off [] Min / Mand: as to Cts

[] ABOVE SENTENCE TO BE FOLLOWED BY: [] Probation [] Drug / Sex Off Prob [] Comm. Control [] I [] II - See Pg. 2
[] DRIVERS LICENSE TO BE SUSPENDED / REVOKED FOR [] YEARS AS A RESULT OF THIS PLEA

DPA SWAB

Set / Remains Set / Reset Div Rm at AM/PM
Set / Remains Set / Reset Div Rm at AM/PM

[] Deft sign [] Def Co [] ASA [] Bondsman

[] Prob [] Jail [] DJJ [] GAL Notified by mail by: on / /

[] County Courthouse 205 N. Dixie, West Palm Beach [] Courtroom, Criminal Justice Bldg. 38844 State Road 80, Belle Glade [] Courtroom, Criminal Justice Complex 3228 Gun Club Rd., West Palm Beach

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT MARY JAFFE, ADA COORDINATOR IN THE ADMINISTRATIVE OFFICE OF THE COURT, PALM BEACH COUNTY COURTHOUSE, 205 N. DIXIE HWY, RM 52500, WEST PALM BEACH, FL 33401; TELEPHONE (561) 355-4380, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE; IF YOU ARE HEARING OR VOICE IMPAIRED, CALL 1-800-655-3771.

Case No.: 2008CF009381AXX W ST of FL vs JEFFREY EPSTEIN
Charges: PROCURE PERSON UNDER AGE OF 18 FOR PROSTITUTION

RISES FROM 2006CF009454AXX)

Arrest# _____ Bond# _____ Type _____ S _____ MC _____
Date 6/30/08 Judge Purita Crt. Rep: P. DAVIS
ASA Palathuel DC BD Int _____
Def: Pres / Not Pres W / W/O Def. Co. David Berger Esq. RD Pres / Not Pres

Before the Court for: Status Check
 Granted Denied With / Without Prejudice Withdrawn Court Reserves Ruling Written Order to Follow

Warrant Ordered Recalled Bond Set at \$ _____ See Below Also Covers Sp Cond
 Bond Forf. OR Disch / Revoked / Reinstated Bond Disch / Revoked SOR Disch / Revoked / Reinstated
 Bond Forf Vacated Previous Bond Reinstated, if Bondsman agrees State failed to file charges Released OR / S.O.R.

Deft Indigent PD Appt. Hrg only PD Pres Court Appts
Evaluation for: Drug Barm DOC Non-Secure Bed by _____
 Pre-Plea PSI ordered by / within _____ days w/input from DJJ / Staffing

Referred to: PTI / SAAP / PADD Case placed on the absentee docket

DEFT ENTERED PLEA OF: NOT GUILTY GUILTY NO CONTEST BEST INTEREST TO THE COURT
Charged Cts 0.00 Lesser Cts _____ Lesser Charge _____
 Sw & Test Adv of Rts Waived PSI Lesser Cts _____ Lesser Charge _____

ADJ GUILTY Charged as to Cts 1024 Lesser Cts _____
 FOUND GUILTY as Charged as to Cts Lesser Cts _____
 ADJ WHELD as to Cts _____ SENT WHELD as to Cts _____

FOUND AND ADJUDICATED DELINQUENT as to Cts _____ Dispo Order to follow / Filed
 FOUND & ADJ NOT GUILTY as to Cts _____ Dismiss Nolle Prose Cts _____

Prob / Comm Control: Revoked Reinstated Modified Term Successfully Unsuccessfully
 Deft. to pay fine or complete _____ hrs. Community Service or Serve _____ days PBCJ

Slip/Found Violent/Habitual Off: 775084 Slip/Found Sexual Offender / Sexual Predator Slip/Found P.R.R.
SENTENCE: PBCJ 1125 Cts: _____ / DOC: _____ Cts: _____
PBCJ Cts: _____ / DOC: _____ Cts: _____

W/Credit for _____ Days / Mos. / Yrs. Deft. Remanded Deft. to remain on same rel. status pending sent.
Conc. / Consec. / Cts: 2008CF009381AXX

Execution of Sentence Stayed Sentence Suspended Time served as to Cts _____
 Youthful Off. Habitual Off. Min / Mand: _____ as to Cts _____

ABOVE SENTENCE TO BE FOLLOWED BY: Probation Drug Off Prob Comm. Control M-I II (See Page 2)

DNA SWAB

Set / Remains Set / Reset _____ Div _____ Rm _____ at _____ AM/PM
Set / Remains Set / Reset _____ Div _____ Rm _____ at _____ AM/PM

Deft sign _____ ASA _____ Bondsman _____
 Det Co _____ Prob Jail DJJ GAE Notified by mail by _____ on _____ / _____ / _____

County Courthouse Courtroom, Criminal Justice Bldg. Courtroom, Criminal Justice Complex
205 N. Dixie, West Palm Beach 38844 State Road 80, Belle Glade 3228 Gun Club Rd., West Palm Beach

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT ROBIN SHEPETH, ADA COORDINATOR IN THE ADMINISTRATIVE OFFICE OF THE COURT, PALM BEACH COUNTY COURTHOUSE, 205 N. DIXIE HWY, RM 5.2500, WEST PALM BEACH, FL 33401, TELEPHONE (561) 355-4380, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE. IF YOU ARE HEARING OR VOICE IMPAIRED, CALL 1-800-955-8771.

DATE: 6/30/08

CASE NO. 2008CF9831AXY

NAME: Te ABEY Epstein

TERM OF Prob / Sex Off / Drug Off Prob / C.C. I / C.C. II: 12 mos / yrs as to Cts.

conc. w/ consec. w/

Probation transferred to:

SPECIAL CONDITIONS:

- Complete Originally Ordered Conditions
- Curfew: _____ p.m., with the following exception: _____
- Deft. to report to Prob. Dept. immediately upon release
- Deft. not to have in care, custody, or control any unlawful or illegal material, subst., device, or object.
- Deft. to immediately notify Prob. Officer if place of residence or job changes.
- Restitution CRO filed
- Subject to all ordinary and special conditions of Probation
- Substance Abuse Eval. / Psychological Eval. / Psychosexual Eval. within / by: _____ and deft. to successfully complete recommended treatment
- Random Drug/Alcohol Testing At Deft's Expense Costs Waived
- No Consumption/Possession of Alcohol or Drugs or Intoxicants without a Prescription.
- Attend _____ AA and/or NA Meetings per Week.
- Deft. not to frequent any place of business whose primary purpose is the sale of alcohol.
- Complete _____ Hrs. of Community Service to be done at the rate of _____ Hrs. per WK / Mo. (Min.)
- License Revoked / Suspended for _____ mos / yrs
- Attend and successfully complete DUI school and 1 session of Victim Impact Panel
- No Contact / No Violent Contact / No Direct or Indirect contact w/Victim(s) or others listed:

- No Contact w/Minor Children w/o Adult Supervision aware of this case and the disposition.
- Cost of Supervision: \$ _____ per month Waived by Court.
- Enter and Successfully Complete DOC Non-Secure Bed Program and Any Recommended Aftercare.
- Hold in Custody, release only to DOC Non-Secure Bed Program Officer.
- Enter and Successfully Complete PBSO Long / Short Track Drug Farm and Any Rec. Aftercare.
- Forfeit Weapon / Money seized at the time of arrest to:
- Enter and Complete: Anger Management Program Batterers Intervention Program
- Theft Abatement Program: _____ Other: _____
- Defendant may apply for Early Termination after _____, provided all conds. are satisfied.
- Serve _____ days / months in PBCJ, with credit for _____ days / months.

See All Attached Documents

Deft must register as a Sexual Offender

w/in 48 hours of Release.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80736-CIV-MARRA/JOHNSON

IN RE: JANE DOES 1 AND 2,

Petitioners.

ORDER TO COMPEL PRODUCTION AND PROTECTIVE ORDER

THIS CAUSE comes before the Court on the Petitioners' *ore tenus* motion seeking the production of the Non-Prosecution Agreement between the United States Attorney's Office for the Southern District of Florida ("USAO") and Jeffrey Epstein ("Epstein"). After consideration of the Motion, the arguments of the parties, and the record, it is **ORDERED AND ADJUDGED** that the Petitioners' Motion is **GRANTED**. The USAO shall produce the Non-Prosecution Agreement, including any modifications and addenda thereto, in accordance with the following procedures:

(a) The USAO shall produce a copy of the Non-Prosecution Agreement, including any modifications and addenda thereto (collectively referred to as the "Agreement"), to the attorneys for Petitioners.

(b) Petitioners and their attorneys shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard.

(c) Before counsel for petitioners show the Agreement to their clients or discuss the specific terms with them, they must provide a copy of this Order to petitioners, who must review and acknowledge their receipt of, and agreement to abide by, the terms of the Order. Counsel for petitioners must promptly provide a copy of that acknowledgment to the USAO.

(d) If any individuals who have been identified by the USAO as victims of

Epstein and/or any attorney(s) for those individuals request the opportunity to review the Agreement, then the USAO shall produce the Agreement to those individuals, so long as those individuals also agree that they shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard

(e) Prior to producing the documents to any other individuals who have been identified by the USAO as victims of Epstein and/or any attorney(s) for those individuals, a copy of this Order must be provided to said individuals, who must review and acknowledge their receipt of, and agreement to abide by, the terms of this Order. Counsel for petitioners must promptly provide a copy of that acknowledgment to the USAO.

DONE and ORDERED in Chambers, in West Palm Beach, Palm Beach County, Florida, this 21st day of August, 2008.


KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Copies furnished to: all counsel of record

By signing below, I certify that I have reviewed and agree to be bound by the terms of this Order.

Dated: 8/3/09

Signed by: 
Printed Name:



LEOPOLD-KUVIN^{PA}
CONSUMER JUSTICE ATTORNEYS

July 6, 2009

[REDACTED]
Assistant U.S. Attorney
Southern District of Florida
500 E. Broward Blvd, 7th Floor
Ft. Lauderdale, FL 33394

Re: B.B. [REDACTED] JEFFREY EPSTEIN
OUR FILE NO.: 080303

Dear Ms. Villafana:

As you are aware, this firm represents Plaintiff, Jane Doe, a/k/a/ B.B. in the civil litigation against Jeffrey Epstein styled *B.B. [REDACTED] Jeffrey Epstein*, case no.: 502008CA037319 MB AB. We are hereby requesting that a copy of the non-prosecution agreement be provided to my office as soon as possible.

If there are any questions or concerns regarding the production of this agreement, please contact me at once.

Sincerely,

SPENCER T. KUVIN

STK/mlb



LEOPOLD & KUVIN^{PA}
CONSUMER JUSTICE ATTORNEYS

July 31, 2009

[REDACTED]
Assistant U.S. Attorney
Southern District of Florida
500 E. Broward Blvd, 7th Floor
Ft. Lauderdale, FL 33394

Re: B.B. [REDACTED] JEFFREY EPSTEIN
OUR FILE NO.: 080303

Dear Ms. Villafana:

I am following up on my letter of July 6, 2009, regarding the non-prosecution agreement between the U.S. Attorneys office and Jeffrey Epstein.

Please advise whether or not this document will be produced.

Sincerely,

SPENCER T. KUVIN

STK/mlb



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

August 4, 2009

VIA ELECTRONIC MAIL

Spencer T. Kuvin, Esq.
Leopold~Kuvin, P.A.



Re: Jeffrey Epstein/B.B. – Requested Disclosure of Non-Prosecution Agreement

Dear Mr. Kuvin:

Thank you for your letter regarding the disclosure of the Non-Prosecution Agreement signed by Jeffrey Epstein. I understand that you are asking for a copy of that Agreement in connection with your representation of "B.B." As you are aware, the Agreement contains a confidentiality provision. Based upon a lawsuit filed by some of Mr. Epstein's victims, U.S. District Judge Kenneth Marra has issued a Protective Order requiring the U.S. Attorney's Office to provide copies of the Agreement to certain individuals under certain circumstances. The Order states:

If any individuals who have been identified by the USAO [U.S. Attorney's Office] as victims of Epstein and/or any attorney(s) for those individuals request the opportunity to review the Agreement, then the USAO shall produce the Agreement to those individuals, so long as those individuals also agree that they shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard . . .

(Court File No. 08-CV-80737-MARRA, DE 26, ¶ (e).)

The language "individuals who have been identified by the USAO as victims of Epstein" refers to a specific list of individuals who were the subject of the federal investigation. A list of those individuals was provided to Mr. Epstein's attorney. Your client, B.B., was not identified during that investigation, and, therefore was not on the list. By stating this I am not, in any way, denigrating any harm that your client may have suffered. I am simply stating that, given time and resource limitations that we faced during the investigation, B.B. was not a person who was positively identified, such that she would have been the subject of charges within a

SPENCER T. KUVIN, ESQ.
AUGUST 4, 2009
PAGE 2

possible federal indictment.

For this reason, your client is not covered by the Court's Protective Order and the Agreement's confidentiality provision remains intact. If you are unable to get a copy of the Agreement via the civil discovery process in the lawsuit that you have filed against Mr. Epstein, please ask his counsel if they will consent to my production of the Agreement to you and I will send a copy to you.

Sincerely,

Jeffrey H. Sloman
Acting United States Attorney

By: [Redacted]
Assistant U.S. Attorney

cc: Karen Atkinson, Esq.



LEOPOLD & KUVIN^{PA}
CONSUMER JUSTICE ATTORNEYS

January 4, 2010

[REDACTED]
Assistant U.S. Attorney
Southern District of Florida
500 E. Broward Blvd, 7th Floor
Ft. Lauderdale, FL 33394

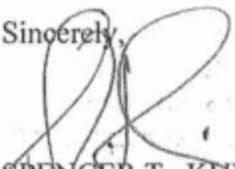
Re: B.B. [REDACTED] JEFFREY EPSTEIN
OUR FILE NO.: 080303

Dear [REDACTED]

After taking the deposition of Police Chief, [REDACTED], it came to our attention that apparently a computer which was initially seized during the search warrant conducted on Mr. Epstein's home was returned by the FBI to a private investigator employed by Mr. Epstein. We would like to determine who this computer was returned to, and when it was returned. It would assist us greatly if you could check your records to determine when, and if, this was ever done. Additionally, according to the sworn testimony of Chief [REDACTED] his department was provided with a letter containing a list of potential victims of Mr. Epstein. This letter contained language pursuant to a previously unknown Federal Statute which apparently directed him to destroy the letter after reading it. We hereby request that your office advise what Statute or Code that letter was referring to. Finally, we would like to schedule the depositions of FBI Special Agents [REDACTED]. Please let me know who we need to direct our subpoenas to in order to schedule these depositions.

I appreciate your immediate attention to this matter. Should you have any additional questions about these issues, please do not hesitate to contact me at once.

Sincerely,


SPENCER T. KUVIN

STK:mlb

Unsealed 03/09/10
Sealed

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**
Civil Action No. _____

10-80309

FILED by EB D.C.
FEB 23 2010
STEVEN M. LARIMORE
CLERK U S DIST CT
S. D. of FLA. - MIAMI

JANE DOE No. 103,

Plaintiff,

█

JEFFREY EPSTEIN,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Jane Doe No. 103 ("Plaintiff"), brings this Complaint against Defendant, Jeffrey Epstein ("Defendant"), and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. At all times material to this cause of action, Plaintiff was a resident of Palm Beach County, Florida.
2. This Complaint is brought under a fictitious name to protect the identity of Plaintiff because this Complaint makes sensitive allegations of sexual assault and abuse of a then minor.
3. At all times material to this cause of action, Defendant owned a residence located at 358 El Brillo Way, Palm Beach, Palm Beach County, Florida.
4. Defendant is presently a citizen of the United States Virgin Islands. Pursuant to the plea agreement entered by the Defendant in state court and the sentencing which occurred on June 30, 2008, Defendant is currently under community control in Palm Beach County, Florida.

Sealed

1/GENE

5. Defendant is an adult male born on January 20, 1953.

6. This Court has jurisdiction over this action and the claims set forth herein pursuant to 18 U.S.C. § 2255.

7. This Court has venue of this action pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events giving rise to the claim occurred in this District.

STATEMENT OF FACTS

8. At all relevant times, Defendant was an adult male spanning the ages of 45 and 55 years old. Defendant is known as a billionaire financier and money manager with a secret clientele limited exclusively to billionaires. He is a man of tremendous wealth, power, and influence. He owns a fleet of aircraft that includes a Gulfstream IV, a helicopter, and a Boeing 727, as well as a fleet of motor vehicles. Until his incarceration pursuant to the plea entered and sentencing, which occurred on June 30, 2008, he maintained his principal place of residence in the largest dwelling in Manhattan, a 51,000-square-foot eight-story mansion on the Upper East Side. He also owns a \$6.8 million mansion in Palm Beach, Florida, a \$30 million 7,500-acre ranch in New Mexico he named "Zorro," a 70-acre private island known as Little St. James in the U.S. Virgin Islands, a mansion in London's Westminster neighborhood, and another residence in the Avenue Foch area of Paris. The allegations herein concern Defendant's conduct while at his lavish residence in Palm Beach and numerous other locations both nationally and internationally.

9. Defendant has a sexual preference for underage minor girls. He engaged in a plan, scheme, or enterprise in which he gained access to countless vulnerable and relatively economically disadvantaged minor girls, and sexually assaulted, molested, and/or exploited these girls, and then gave them money.

10. Beginning in or around 1998 through in or around September 2007, Defendant used his resources and his influence over vulnerable minor girls to engage in a systematic pattern of sexually exploitative behavior.

11. Defendant's plan and scheme reflected a particular pattern and method. Defendant coerced and enticed impressionable, vulnerable, and relatively economically less fortunate minor girls to participate in various acts of sexual misconduct that he committed upon them. Defendant's scheme involved the use of underage girls, as well as other individuals, to recruit underage girls. Defendant and/or an authorized agent would call and alert Defendant's assistants shortly before or after he arrived at his Palm Beach residence. His assistants would call economically disadvantaged and underage girls from West Palm Beach and surrounding areas who would be enticed by the money being offered and who Defendant and/or his assistants perceived as less likely to complain to authorities or have credibility issues if allegations of improper conduct were made. The then minor Plaintiff and other minor girls, some as young as 14 years old, were transported to Defendant's Palm Beach mansion by Defendant's employees, agents, and/or assistants in order to provide Defendant with "massages."

12. Many of the instances of illegal sexual conduct committed by Defendant were perpetrated with the assistance, support, and facilitation of at least three assistants who helped him orchestrate this child exploitation enterprise. These assistants would arrange times for underage girls to come to Defendant's residence, transport or cause the transportation of underage girls to Defendant's residence, escort the underage girls to the massage room where Defendant would be waiting or would enter shortly thereafter, urge the underage girls to remove their clothes, deliver cash from Defendant to the underage girls and/or their procurers at the conclusion of each "massage appointment," and assist Defendant in taking nude photographs

and/or videos of the underage girls with and/or without their knowledge. Defendant would pay the procurer of each girl's "appointment" hundreds of dollars.

13. Defendant designed this scheme to secure a private place in Defendant's Palm Beach mansion where only persons employed and invited by Defendant would be present, so as to reduce the chance of detection of Defendant's sexual abuse and/or exploitation, as well as to make it more difficult for the minor girls to flee the premises and/or to credibly report his actions to law enforcement or other authorities. The girls were usually transported by his employee(s), agent(s), and/or assistant(s) and/or by taxicab(s) and/or motor vehicle(s) paid for by Defendant, which also made it difficult for the girls to flee his mansion.

14. Upon her initial arrival at Defendant's Palm Beach mansion, each underage victim would generally be introduced to one of Defendant's assistants, who would gather the girl's personal contact information. The minor girl would be led up a remote flight of stairs to a room that contained a massage table and a large shower.

15. At times, if it was the girl's first "massage" appointment, another female would be in the room to "lead the way." Generally the other female would leave, or Defendant would dismiss her. Often, Defendant would start his massage wearing only a small towel, which eventually would be removed. Defendant and/or the other female would direct the girl to massage him, giving the minor girl specific instructions as to where and how he wanted to be touched, and then direct her to remove her clothing. Defendant would then perform one or more lewd, lascivious, and sexual acts, including masturbation; fondling the minor's breasts and/or sexual organs; touching the minor's vulva, vagina, and/or anus with a vibrator, back massager, his finger(s), and/or his penis; digitally penetrating her vagina; performing intercourse, oral sex, and/or anal sex; and/or coercing or attempting to coerce the girl to engage in lewd acts and/or

prostitution and/or enticing the then minor girl to engage in sexual acts with another female in Defendant's presence. The exact degree of molestation and frequency with which the sexual exploitations took place varied and is not yet completely known; however, Defendant committed such acts regularly on a daily basis and, in most instances, several times a day. In order to facilitate the daily exchanges of money for sexual assault and abuse, Defendant kept U.S. currency readily available.

16. Defendant traveled out of Florida to Palm Beach for the purpose of luring minor girls to his mansion to sexually abuse and/or batter them. He used the telephone to contact these minor girls for the purpose of coercing them into acts of prostitution and to enable himself to commit sexual battery against them and/or acts of lewdness in their presence, and he conspired with others, including his employee(s), assistant(s), driver(s), pilot(s), and/or agent(s), to facilitate these acts and to avoid police detection. Defendant's systematic pattern of sexually exploitative behavior described above also occurred in Defendant's other domestic and/or international residences, places of lodging, and/or modes of transportation.

17. Consistent with the foregoing plan and scheme, Defendant used his money, wealth, and power to unduly and improperly manipulate and influence the then minor Plaintiff. A vulnerable young girl, Plaintiff was merely a seventeen year old high school student when she was first lured into Defendant's sexually exploitative world in or about January 2004. Plaintiff was recruited while at work by a co-worker, one of the minor victims Defendant paid to procure underage females. Plaintiff went to Defendant's Palm Beach mansion accompanied by this co-worker. Upon arriving, Plaintiff was led by one of Defendant's assistants up a flight of stairs to a spa room with a shower and a massage table. Defendant entered this room wearing only a towel. Defendant suddenly removed his towel, exposing his naked body, and then lay on the massage

table. Defendant told Plaintiff to massage his back and take off her clothing, which she refused to do. Defendant then began to try to touch the minor Plaintiff and/or take off her clothing. After Defendant's relentless pawing, she reluctantly removed some of her clothing. During this encounter, Defendant turned over on his back and fondled Plaintiff's breasts, despite her repeatedly telling him not to do so. As Plaintiff massaged Defendant, Defendant proceeded to masturbate until ejaculation. Defendant then paid Plaintiff two hundred dollars, and Plaintiff was escorted out of Defendant's mansion and left Defendant's property.

18. A similar pattern of grooming continued, and the sexual exploitation progressively escalated, over the course of approximately seventeen months during which Defendant would often travel to Palm Beach. Prior to arriving and while in Palm Beach, Defendant and/or his agent(s) would frequently call Plaintiff at her home telephone number and/or other telephone numbers, arranging for encounters with her for Defendant, sometimes twice daily. While usually such contacts were made by his assistants, Defendant personally called Plaintiff repeatedly, despite being told to leave Plaintiff alone. After the first few encounters, Defendant coerced Plaintiff to remove all her clothing, and Defendant penetrated the minor Plaintiff's vagina digitally. Defendant sexually abused and/or battered and/or exploited Plaintiff at least a hundred times between approximately January 2004 and May 2005. Such exploitation included, but was not limited to, Defendant's sexual abuse and battery of Plaintiff with vibrator(s), back massager(s), his finger(s), and his penis. At times, Defendant manipulated Plaintiff to interact sexually with another female. During one encounter, Defendant penetrated the minor Plaintiff's vagina with his penis, all the while narrating and demonstrating his sexual battery of Plaintiff to another female present in the room. While some of the precise dates that Defendant's acts of sexual exploitation occurred are unknown to Plaintiff, these dates are known

to Defendant, as he and/or his assistants kept written records, some of which are in the custody of law enforcement, of each instance in which he committed lewd acts upon minor girls, including the then minor Plaintiff.

19. Defendant's preference for underage girls was well-known to those who regularly procured them for him. The above-described acts of abuse began to occur during a time when Defendant knew that Plaintiff was a minor. Defendant, at all times material to this cause of action, knew and/or should have known of Plaintiff's age of minority. In fact, Defendant repeatedly urged the minor Plaintiff to become legally emancipated in order to accompany him as he traveled, both nationally and internationally. Additionally, Defendant, knowing that Plaintiff was merely seventeen years old, lured her by inviting her to stay with him at his mansion in Manhattan and arranging and/or paying for airplane tickets, theater tickets, and a personal chauffeur as gifts for her upcoming birthday.

20. As part of Defendant's persistent process of grooming Plaintiff and immersing her in his lewd and abusive lifestyle, Defendant regularly showered the adolescent Plaintiff with gifts, including, but not limited to lingerie, flowers, bikini bathing suit(s), art book(s), purse(s), envelopes of U.S. currency, use of a car, and/or other accoutrements.

21. Defendant possessed photographs of nude underage girls, some of which may have been taken with hidden cameras set up in his residence in Palm Beach. On the day of Defendant's arrest, police found two hidden cameras and photographs of underage girls in Defendant's mansion. Defendant took lewd photographs of Plaintiff with his hidden cameras and transported lewd photographs of Plaintiff and other victims elsewhere using a facility or means of interstate and/or foreign commerce. On one occasion, Defendant manipulated the minor Plaintiff to pose nude for him and photographed her using several rolls of film. One or

more of those nude photographs of Plaintiff that were taken by the Defendant when she was a minor were confiscated by the Palm Beach Police Department during its execution of a search warrant of Defendant's Palm Beach mansion on October 20, 2005.

22. Defendant was particularly skillful at discerning his minor victims' respective hopes, dreams, and ambitions. As he did with many of his victims, Defendant lured Plaintiff early-on with modeling opportunities, impressing her with his modeling business and contacts with supermodels, indicating that he could help her with a modeling career.

23. Knowing that the minor Plaintiff was an excellent student and desired to attend New York University or Columbia University, Defendant pretended to show great interest in her college admission, and offered to help her with her applications and to assist her with her tuition. Defendant had told Plaintiff of his substantial connections within the academic community, a matter about which he often bragged. Defendant took it upon himself to take control of Plaintiff's college application process and led Plaintiff to believe that he was sincere about helping her. Even though she had earned a Bright Futures Scholarship to the Florida college of her choice, Defendant insisted that she would not need it, and that, with his involvement, she would be admitted into one or both of the universities in New York. As a result of Defendant's manipulation, Plaintiff did not apply timely for the Bright Futures Scholarship or to any college, and therefore missed the fall semester of her freshman year. When the Palm Beach Police Department executed the search warrant on Defendant's mansion, among the artifacts found and confiscated were Plaintiff's high school transcript.

24. In June 2008, after an investigation by the Palm Beach Police Department, the State Attorney's Office, the Federal Bureau of Investigation, and the United States Attorney's Office, Defendant entered pleas of "guilty" to one count of solicitation of prostitution, in

violation of Fla. Stat. § 796.07, and one count of solicitation of a minor to engage in prostitution, in violation of Fla. Stat. § 796.03 in the Fifteenth Judicial Circuit in Palm Beach County, Florida.

25. As a condition of that plea, Defendant entered into a Non-Prosecution Agreement, Addendum, and Affirmation (collectively, the "NPA") with the United States Attorney's Office for the Southern District of Florida on September 24, 2007, October 29, 2007, and December 7, 2007, respectively. In so doing, Defendant acknowledged that Plaintiff was one of his victims and agreed to the following provisions of the NPA :

8. If any of the [acknowledged victims] elects to file suit pursuant to 18 U.S.C. §2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. §2255, and agrees to waive any other claim for damages, whether pursuant to state, federal or common law.

10. *Except as to those individuals who elect to proceed exclusively under 18 U.S.C. §2255, as set forth in paragraph (8), supra, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions of evidence or evidence of civil or criminal liability or a waive of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States (emphasis added).*

26. Plaintiff was among the individuals identified by the United States Attorney's Office as victims of Defendant upon whose testimony it intended to base its federal prosecution of Defendant for his illegal conduct. Consequently, Defendant is estopped by his state court plea and the Non-Prosecution Agreement from denying the acts alleged in this Complaint and must effectively admit liability to Plaintiff, Jane Doe No. 103.

COUNT ONE

(Cause of Action for Coercion and Enticement of Minor to Engage in Prostitution or Sexual Activity pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2422(b))

27. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above.

28. Defendant used a facility or means of interstate and/or foreign commerce to knowingly persuade, induce, entice, or coerce Plaintiff, when she was under the age of 18 years, to engage in prostitution and/or sexual activity for which any person can be charged with a criminal offense, or attempted to do so, pursuant to 18 U.S.C. § 2255 in violation of 18 U.S.C. § 2422(b).

29. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

30. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT TWO

(Cause of Action for Travel with Intent to Engage in Illicit Sexual Conduct pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2423(b))

31. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above.

32. Defendant traveled in interstate and/or foreign commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, including the then minor Plaintiff, in violation of 18 U.S.C. § 2423(b).

33. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

34. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn

income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT THREE
(Cause of Action for Sexual Exploitation of Children pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2251)

35. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above.

36. Defendant knowingly persuaded, induced, enticed, or coerced the then minor Plaintiff to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, in violation of 18 U.S.C. § 2251.

37. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

38. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical

and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT FOUR

(Cause of Action for Transport of Visual Depiction of Minor Engaging in Sexually Explicit Conduct pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2252(a)(1))

39. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above.

40. Defendant knowingly mailed, transported, shipped, or sent via computer and/or facsimile in or affecting interstate and/or foreign commerce at least one visual depiction of the minor Plaintiff engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(1).

41. Defendant transported lewd photographs of Plaintiff and other victims elsewhere using a facility or means of interstate and/or foreign commerce.

42. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

43. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment,

loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT FIVE

**(Cause of Action for Transport of Child Pornography pursuant to 18 U.S.C. § 2255
in Violation of 18 U.S.C. § 2252A(a)(1))**

44. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above.

45. Defendant knowingly mailed, transported, shipped, or sent via computer and/or facsimile in or affecting interstate and/or foreign commerce child pornography, in violation of 18 U.S.C. § 2252A(a)(1).

46. Defendant transported lewd photographs of Plaintiff and other victims elsewhere using a facility or means of interstate and/or foreign commerce.

47. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

48. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT SIX

(Cause of Action for Engaging in a Child Exploitation Enterprise pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2252A(g))

49. Plaintiff hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 26 above and Counts One through Five above.

50. Defendant knowingly engaged in a child exploitation enterprise, as defined in 18 U.S.C. § 2252A(g)(2), in violation of 18 U.S.C. § 2252A(g)(1). As more fully set forth above, Defendant engaged in actions that constitute countless violations of 18 U.S.C. § 1591 (sex trafficking of children), Chapter 110 (sexual exploitation of children in violation of 18 U.S.C. §§

2251, 2252(a)(1), and 2252(A)(a)(1)), and Chapter 117 (transportation for illegal sexual activity in violation of 18 U.S.C. §§ 2421, 2422(b), and 2423(b)). As more fully set forth above in paragraphs 1 through 26, Defendant's actions involved countless victims and countless separate incidents of sexual abuse, which he committed against minors, including Plaintiff, in concert with at least three other persons.

51. Plaintiff was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant pursuant to this Section of the United States Code.

52. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and luring her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future incur additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages,

attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

Date: February 23, 2010.

Respectfully Submitted,

By: Robert C. Josephberg by KWE
Robert C. Josephberg

Katherine W. Ezell



Attorneys for Plaintiff

wjz 1018042

JS 4c (Rev. 2/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate Sealed Cases Below.**

I. (a) PLAINTIFFS

Jane Doe No. 103

10-80309

DEFENDANTS

Jerry Epstein

(b) County of Residence of First Listed Plaintiff West Palm Beach
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant United States Virgin Islands
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Robert C. Josefsberg, Esq./Katherine W. Ezell, Esq.
Podhurst Orseck, P.A.

NOTE: IN LAND CONDEMNATION CASES, PLEASE INDICATE THE TRACT LAND INVOLVED.

Attorneys (If Known)

Robert D. Critton, Esq., Burman, Critton, Foster & Cushman, LLP,
303 Banyan Blvd., Suite 400, West Palm Beach, FL 33401

FILED by EB D.C.
United States Virgin Islands
FEB 23 2010
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. of FLA - MIAMI

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 NIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fed Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Re-filed (see VI below)
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

(See instructions second page):
 a) Re-filed Case YES NO
 b) Related Cases YES NO
 JUDGE Kenneth A. Marra DOCKET NUMBER See Attached.

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. 2255 (Predicate Statutes 18 U.S.C. 2422(b), 2423(b), 2423(e), 2251, 2252, 2252A(a)(1), 2252A(g)(1))
 LENGTH OF TRIAL via \$ 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** In excess of \$ 75,000. **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

s/ Katherine W. Ezell

DATE

2/23/10

FOR OFFICE USE ONLY

AMOUNT 350.00

RECEIPT # 1018042 IFF

2/23/10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

**ATTACHMENT TO CIVIL COVER SHEET
FOR: Jane Doe 103 ■ Jeffrey Epstein**

VI. RELATED PENDING CASES

08-80119 - KAM
08-80232 - KAM
08-80380 - KAM
08-80381 - KAM
08-80811 - KAM
08-80893 - KAM
08-80993 - KAM
08-80994 - KAM
09-80469 - KAM
09-80802 - KAM
09-81092 - KAM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-80309-CIV-

JANE DOE No. 103,

Plaintiff,

vs.

JEFFERY EPSTEIN,

Defendant.

**DEFENDANT EPSTEIN'S MOTION TO DISMISS, & FOR MORE
DEFINITE STATEMENT & STRIKE DIRECTED TO PLAINTIFF
JANE DOE NO. 103'S COMPLAINT [dated 2/23/2010]**

Defendant, JEFFREY EPSTEIN, ("EPSTEIN"), by and through his undersigned counsel, moves to dismiss Counts One through Six of Plaintiff JANE DOE 103's Complaint for failure to state a cause of action, as specified herein. Rule 12(b)(6), Fed.R.Civ.P. (2009); Local Gen. Rule 7.1 (S.D. Fla. 2009). Defendant further moves for more definite statement and to strike. Rule 12(e) and (f). In support of his motion, Defendant states:

The Complaint attempts to allege 6 counts, all of which are purportedly brought pursuant to 18 U.S.C. §2255 – *Civil Remedies for Personal Injuries*. Dismissal is required on the following grounds: (1) 18 U.S.C.A. §2255 allows for a single recovery of "actual damages." (A.) Statutory Considerations: the statute does not allow for the Plaintiff to allege multiple counts, six in this case, or multiple predicate act violations or incidents, in an effort to multiply or seek duplicate recoveries of her "actual damages"

based on the number of predicate act violations or incidents. The statutory minimum is just that – a minimum; nothing prevents a plaintiff from proving and recovering “actual damages” in excess of the minimum amount. (B.) Constitutional Considerations: in the alternative, constitutional principles require that the statute be interpreted as allowing for a single recovery of one’s damages. Thus, to the extent Plaintiff is seeking to improperly multiply or seek duplicate recoveries of her actual damages, the action is required to be dismissed. (2) The statute in effect during the time of the alleged conduct applies – the version in effect from 1999 to July 26, 2006, not the statute as amended in 2006, effective July 27, 2006. To the extent Plaintiff is attempting to rely on the amended version of the statute, such reliance is improper and also requires dismissal of the entire action. (3) Count VI is also subject to dismissal because the predicate act relied upon by Plaintiff did not come into effect until July 27, 2006, well after the conduct alleged by Plaintiff occurred.

Supporting Memorandum of Law

Principles of Statutory Interpretation

It is well settled that in interpreting a statute, the court’s inquiry begins with the plain and unambiguous language of the statutory text. CBS, Inc. v. Prime Time 24 Venture, 245 F.3d 1217 (11th Cir. 2001); U.S. v. Castroneves, 2009 WL 528251, *3 (S.D. Fla. 2009), citing Reeves v. Astrue, 526 F.3d 732, 734 (11th Cir. 2008); and Smith v. Husband, 376 F.Supp.2d at 610 (“When interpreting a statute, [a court’s] inquiry begins with the text.”). “The Court must first look to the plain meaning of the words, and scrutinize the statute’s ‘language, structure, and purpose.’” Id. In addition, in construing a statute, a court is to presume that the legislature said what it means and means what it said, and not add language or give some absurd or strained interpretation. As stated in

CBS, Inc., supra at 1228 – “Those who ask courts to give effect to perceived legislative intent by interpreting statutory language contrary to its plain and unambiguous meaning are in effect asking courts to alter that language, and ‘[c]ourts have no authority to alter statutory language.... We cannot add to the terms of [the] provision what Congress left out.’ *Merritt*, 120 F.3d at 1187.” See also Dodd ■ U.S., 125 S.Ct. 2478 (2005); 73 Am.Jur.2d *Statutes* §124.

Title 18 of the U.S.C. is entitled “Crimes and Criminal Procedure.” §2255 is contained in “Part I. Crimes, Chap. 110. Sexual Exploitation and Other Abuse of Children.” 18 U.S.C. §2255 (2002)¹, is entitled *Civil remedy for personal injuries*, and provides:

- (a) Any minor who is a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.
- (b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

See endnote 1 hereto for statutory text as amended in 2006, effective July 27, 2006. Prior to the 2006 amendments, the version of the statute quoted above was in effect beginning in 1999.¹

¹ The above quoted version of 18 U.S.C. §2255 was the same beginning in 1999 until amended in 2006, effective July 27, 2006.

Motion to Dismiss

(1) The remedy afforded pursuant to 18 U.S.C. §2255 allows for a single recovery of “actual damages” by a plaintiff against a defendant. The recovery afforded is not on a per violation or per incident or per count basis.²

(A.) Statutory Considerations. 18 U.S.C.A. §2255 - *Civil Remedy for Personal Injuries*, creates a federal cause of action or “civil remedy” for a minor victim of sexual, abuse, molestation and exploitation, and allows for a single recovery of the “actual damages” sustained and proven by a “minor who is a victim of a violation” of an enumerated predicated act and who suffers personal injury as a result of such violation.” “18 U.S.C. §2255 gives victims of sexual conduct who are minors a private right of action.” Martinez **█** White, 492 F.Supp.2d 1186, 1188 (N.D. Cal. 2007). 18 U.S.C.A. §2255 “merely provides a cause of action for damages in ‘any appropriate United States District Court.’” Id., at 1189.

Under the plain meaning of the statute, §2255 does not allow for the actual damages sustained to be duplicated or multiplied on behalf of a plaintiff against a defendant on a “per violation” or “per incident” or “per count” basis. No where in the

² In other §2255 actions filed against Defendant, Defendant has previously asserted the position that 18 U.S.C. §2255’s creates a single cause of action on behalf of a plaintiff against a defendant, as opposed to multiple causes of action on a per violation basis or as opposed to an allowance of a multiplication of the statutory presumptive minimum damages or “actual damages.” EPSTEIN asserts his position regarding the single recovery of damages in order to properly preserve all issues pertaining to the proper application of §2255 for appeal. **EPSTEIN will fully honor his obligations as set forth in the Non-Prosecution Agreement with the United States Attorney’s Office; principally, as related to the claims made in this case by Jane Doe 103, the obligations as set forth in paragraph 8 of that Agreement. In particular, EPSTEIN will not contest the allegation that he committed at least one predicate offense as alleged by Jane Doe 103, a waiver sufficient to satisfy the 2255 statutory condition that Jane Doe 103 was a victim of the commission of one of the enumerated predicate violations as required.**

statutory text is there any reference to the recovery of damages afforded by this statute as being on a “per violation” or “per incident” or “per count” basis. 18 U.S.C. 2255(a) creates a civil remedy for “a minor who is a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation” The statute speaks in terms of the recovery of the “actual damages such minor sustains and the cost of suit, including attorney’s fees.” See 18 U.S.C. §2255(a) (2002). See Smith v. Husband, 428 F.Supp.2d 432 (E.D. Va. 2006); Smith v. Husband, 376 F.Supp.2d 603 (E.D. Va. 2006); Doe v. Liberatore, 478 F.Supp.2d 742, 754 (M.D. Pa. 2007); and the recent cases in front of this court on Defendant’s Motions to Dismiss and For More Definite Statement – Doe No. 2 v. Epstein, 2009 WL 383332 (S.D. Fla. Feb. 12, 2009); Doe No. 3 v. Epstein, 2009 WL 383330 (S.D. Fla. Feb. 12, 2009); Doe No. 4 v. Epstein, 2009 WL 383286 (S.D. Fla. Feb. 12, 2009); and Doe No. 5 v. Epstein, 2009 WL 383383 (S.D. Fla. Feb. 12, 2009); see also U.S. v. Scheidt, Slip Copy, 2010 WL 144837, fn. 1 (E.D.Cal. Jan. 11, 2010); U.S. v. Renga, 2009 WL 2579103, fn. 1 (E.D. Cal. Aug. 19, 2009); U.S. v. Ferenci, 2009 WL 2579102, fn. 1 (E.D. Cal. Aug. 19, 2009); U.S. v. Monk, 2009 WL 2567831, fn. 1 (E.D. Cal. Aug. 18, 2009); U.S. v. Zane, 2009 WL 2567832, fn.1 (E.D. Cal. Aug. 18 2009).

As to the meaning of “actual damages,” the Eleventh Circuit in McMillian v. F.D.I.C., 81 F.3d 1041, 1055 (11th Cir.1996)³, succinctly explained:

³ In McMillian, the 11th Circuit was faced with the task of the interpretation of the statutory term “actual direct compensatory damages” under FIRREA, 12 U.S.C. §1821(e)(3)(i). In doing so, the Court began with the plain meaning of the phrase. See Perrin v. United States, 444 U.S. 37, 42-43, 100 S.Ct. 311, 314, 62 L.Ed.2d 199 (1979) (“A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary common meaning.”); United States v. McLymont, 45 F.3d 400, 401 (11th Cir.), *cert. denied*, 514 U.S. 1077, 115 S.Ct.

... “Compensatory damages” are defined as those damages that “will compensate the injured party for the injury sustained, and nothing more; such as will simply make good or replace the loss caused by the wrong or injury.” Black’s Law Dictionary (6th Ed.1991). “Actual damages,” roughly synonymous with compensatory damages, are defined as “[r]eal, substantial and just damages, or the amount awarded to a complainant in compensation for his actual and real loss or injury, as opposed ... to ‘nominal’ damages [and] ‘punitive’ damages.” *Id.*^{FN15} Finally, “[d]irect damages are such as follow immediately upon the act done.” *Id.* Thus, “actual direct compensatory damages” appear to include those damages, flowing directly from the repudiation, which make one whole, as opposed to those which go farther by including future contingencies such as lost profits and opportunities or damages based on speculation. [Citation omitted]. ...

FN15. According to *Corpus Juris Secundum*, “ ‘Compensatory damages’ and ‘actual damages’ are synonymous terms ... and include[] all damages other than punitive or exemplary damages.” 25 C.J.S. Damages § 2 (1966).

(Emphasis added).

See also, Fanin ■, U.S. Dept. of Veteran Affairs, 2009 WL 1677233 (11th Cir. June 17, 2009), citing Fitzpatrick ■, IRS, 665 F.2d 327, 331 (11th Cir. 1982), *abrogated on other grounds by Doe ■, Chao, 540 U.S. 614, 124 S.Ct. 1204 (2004), (“Actual damages” recoverable under the Privacy Act are “proven pecuniary losses and not for generalized mental injuries, loss of reputation, embarrassment or other non-qualified injuries;” and the statutory minimum of \$1,000 under the Privacy Act is not available unless the plaintiff suffered some amount of “actual damages.”).*

Considering the plain meaning of “actual damages” and the purpose of such damages is to “make one whole,” to allow a duplication or multiplication of the actual damages sustained is in direct conflict with the well entrenched legal principle against duplicative damages recovery. See generally, E.E.O.C. ■, Waffle House, Inc., 534 U.S.

1723, 131 L.Ed.2d 581 (1995) (“[T]he plain meaning of this statute controls unless the language is ambiguous or leads to absurd results.”).

279, 297, 122 S.Ct. 754, 766 (2002) (“As we have noted, it ‘goes without saying that the courts can and should preclude double recovery by an individual.’”), citing General Telephone, 446 U.S., at 333, 100 S.Ct. 1698.

The purpose of damages recovery where a Plaintiff has suffered personal injury as a result of Defendant’s misconduct is to make the plaintiff whole, not to enrich the plaintiff. See 22 Am.Jur.2d *Damages* §36, stating the settled legal principle that –

The law abhors duplicative recoveries, and a plaintiff who is injured by a defendant’s misconduct is, for the most part, entitled to be made whole, not enriched. Hence, for one injury, there should be one recovery, irrespective of the availability of multiple remedies and actions. Stated otherwise, a party cannot recover the same damages twice, even if recovery is based on different theories.

...

, a plaintiff who alleges separate causes of action is not permitted to recover more than the amount of damages actually suffered. There cannot be a double recovery for the same loss, even though different theories of liability are alleged in the complaint.

See also, 22 Am.Jur.2d *Damages* § 28 –

The law abhors duplicative recoveries; in other words, a plaintiff who is injured by reason of a defendant's behavior is, for the most part, entitled to be made whole, not to be enriched. The sole object of compensatory damages is to make the injured party whole for losses actually suffered; the plaintiff cannot be made more than whole, make a profit, or receive more than one recovery for the same harm. Thus, a plaintiff in a civil action for damages cannot, in the absence of punitive or statutory treble damages, recover more than the loss actually suffered. The plaintiff is not entitled to a windfall, and the law will not put him in a better position than he would be in had the wrong not been done or the contract not been broken.

See also recent case of U.S. v. Baker, 2009 WL 4572, at *8, (E.D. Tx. Dec. 7, 2009), wherein the Court was inclined to agree with the defendant’s interpretation of §2255(a) of allowing for a single recovery of the statutory minimum damages amount as opposed to the government’s argument that “the minimum amount of damages mandated by 18 U.S.C. §2255(a) applies to each of (pornographic) image produced by

[defendant].” The government attempted to argue that restitution should be equal to the statutory minimum amount times the 55 photos produced by defendant. In rejecting the government’s argument, the Court reiterated that the statutory minimum is a floor for damages – in other words, a mandated minimum. Nothing prevents a plaintiff from proving that he or she suffered damages in a greater amount.

In attempting to bring six counts pursuant to §2255, Plaintiff’s complaint alleges in part that “Plaintiff was merely a seventeen year old high school student when she was first lured into Defendant’s sexually exploitive world in or about January 2004.” Complaint, ¶17. According to the allegations, Plaintiff “was recruited while at work by a co-worker, one of the minor victims Defendant paid to procure underage females.” Id. The Complaint further alleges, ¶¶17-26, that Defendant “sexually abused and/or battered and/or exploited Plaintiff at least 100 times between January 2004 and May 2005.” If Plaintiff were 17 in January, 2004, she was at least 18 (the age of majority) in January 2005, if not sooner.⁴

Plaintiff alleges identical damages in each of the six counts. Complaint, ¶¶30, 34, 38, 43, 48, and 52. See endnote 2 hereto for Complaint allegations.² In other words, Plaintiff is alleging and seeking recovery of duplicative damages in each of the six counts. To the extent Plaintiff is seeking to duplicate her “actual damages” on a per incident or per violation or per count basis, Plaintiff’s action is required to be dismissed for failure to state a cause of action.

⁴ Defendant is moving for more definite statement requiring Plaintiff to specifically state her date of birth because her age and when she reached the age of majority may impact her ability to even pursue a §2255 claim.

Had Congress wanted to write in a multiplier of actual damages recoverable it could have easily done so. For an example of a statute wherein the legislature included the language “for each violation” in assessing a “civil penalty,” see 18 U.S.C. §216, entitled “*Penalties and injunctions*,” of Chapter 11 – “Bribery, Graft, and Conflict of Interests,” also contained in Title 18 – “Crimes and Criminal Procedure.” Subsection (b) of §216 gives the United States Attorney General the power to bring a “civil action ... against any person who engages in conduct constituting an offense under” specified sections of the bribery, graft, and conflicts of interest statutes. The statute further provides in relevant part that “upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater.” As noted, 18 U.S.C. §2255 does not include such language.

B. Constitutional Considerations.⁵ As set forth above, it is Defendant’s position that the text of 18 U.S.C. §2255 does not allow a Plaintiff to pursue the recovery of actual damages or the minimum afforded under the statute on a “per violation” or “per incident” basis by attempting to allege multiple counts thereunder. In the alternative, if one were to assume that the language of §2255 were vague or ambiguous, under the constitutional based protections of due process, judicial restraint, and the rule of lenity applied in construing a statute, Defendant’s position as to the meaning of the statute would prevail. See United States v. Santos, 128 S.Ct. 2020, 2025 (2008). As summarized by the United States Supreme Court in Santos, supra, at 2025:

⁵ See argument in sections (2) and (3) that follow which represent the predicate for the rule of lenity issue discussed in B.

... The rule of lenity requires ambiguous criminal laws to be interpreted in favor of the defendants subjected to them. See *United States v. Gradwell*, 243 U.S. 476, 485, 37 S.Ct. 407, 61 L.Ed. 857 (1917); *McBoyle v. United States*, 283 U.S. 25, 27, 51 S.Ct. 340, 75 L.Ed. 816 (1931); *United States v. Bass*, 404 U.S. 336, 347-349, 92 S.Ct. 515, 30 L.Ed.2d 488 (1971). This venerable rule not only vindicates the fundamental principle that no citizen should be held accountable for a violation of a statute whose commands are uncertain, or subjected to punishment that is not clearly prescribed. It also places the weight of inertia upon the party that can best induce Congress to speak more clearly and keeps courts from making criminal law in Congress's stead. ...

In *Santos*, the Court was faced with the interpretation of the term “proceeds” in the federal money laundering statute, 18 U.S.C. §1956. “The federal money-laundering statute prohibits a number of activities involving criminal ‘proceeds.’” *Id.*, at 2023. Noting that the term “proceeds” was not defined in the statute, the Supreme Court stated the well settled principle that “when a term is undefined, we give it its ordinary meaning.” *Id.*, at 2024. Under the ordinary meaning principle, the government’s position was that proceeds meant “receipts,” while the defendant’s position was that proceeds meant “profits.” The Supreme Court recognized that under either of the proffered “ordinary meanings,” the provisions of the federal money-laundering statute were still coherent, not redundant, and the statute was not rendered “utterly absurd.” Under such a situation, citing to a long line of cases and the established rule of lenity, “the tie must go to the defendant.” *Id.*, at 2025. See portion of Court’s opinion quoted above. “Because the ‘profits’ definition of ‘proceeds’ is always more defendant friendly than the ‘receipts’ definition, the rule of lenity dictates that it should be adopted.” *Id.*

The recent case of *United States v. Berdeal*, 595 F.Supp.2d 1326 (S.D. Fla. 2009), further supports Defendant’s argument that the “rule of lenity” requires that the Court resolve any statutory interpretation conflict in favor of Defendant. Assuming for the sake of argument that Plaintiff’s multiple counts, leading to a multiplication of the statutory

damages amount, is a reasonable interpretation, like Defendant's reasonable interpretation, under the "rule of lenity," any ambiguity is resolved in favor of the least draconian measure. In Berdeal, applying the rule of lenity, the Court sided with the Defendants' interpretation of the Lacey Act which makes illegal the possession of snook caught in specified jurisdictions. The snook had been caught in Nicaraguan waters. The defendants filed a motion to dismiss asserting the statute did not encompass snook caught in foreign waters. The United States disagreed. Both sides presented reasonable interpretations regarding the reach of the statute. In dismissing the indictment, the Court determined that the rule of lenity required it to accept defendants' interpretation.

To allow a duplication or multiplication would subject Defendant EPSTEIN to a punishment that is not clearly prescribed – an unwritten multiplier of the "actual damages" or the presumptive minimum damages. The rule of lenity requires that Defendant's interpretation of the remedy afforded under §2255 be adopted.

In addition, under the Due Process Clause's basic principle of fair warning -

... a criminal statute must give fair warning of the conduct that it makes a crime As was said in United States v. Harriss, 347 U.S. 612, 617, 74 S.Ct. 808, 812, 98 L.Ed. 989,

'The constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute. The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed.'

Thus we have struck down a [state] criminal statute under the Due Process Clause where it was not 'sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties.' Connally v. General Const. Co., 269 U.S. 385, 391, 46 S.Ct. 126, 127, 70 L.Ed. 322. We have recognized in such cases that 'a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law,' *ibid.*, and that

'No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids.' *Lanzetta*, New Jersey, 306 U.S. 451, 453, 59 S.Ct. 618, 619, 83 L.Ed. 888.

Thus, applying the statutory analysis, in A. and these well-entrenched constitutional principles of statutory interpretation and application in B., Plaintiff's cause of action – Counts One through Six – to the extent Plaintiff is attempting to multiply actual damages or the presumptive amount of damages, is required to be dismissed for failure to state a cause of action.

(2) In addition, if Plaintiff is relying on the amended version of 18 U.S.C. §2255, such reliance is improper and requires dismissal of the entire action. It is Defendant's position that 18 U.S.C. §2255 in effect prior to the 2006 amendments applies to this action.

(3) Further, Count Six is also required to be dismissed as it relies on a predicate act that was not in effect at the time of the alleged conduct.⁶

Plaintiff does not specifically allege in her Complaint on which version of 18 U.S.C. §2255 she is relying. However, in the purported Count Six of her Complaint, ¶50, she alleges that Defendant "knowingly engaged in a child exploitation enterprise, as defined in 18 U.S.C. §2252A(g)(2), in violation of 18 U.S.C. §2252A(g)(1)." §2252A is one of the specified predicate acts under 18 U.S.C. §2255. However, subsection (g) of §2252 was not added to the statute until 2006. Thus, to the extent that Plaintiff is relying on the amended version, such reliance is improper and the entire action is required to be dismissed. Further, in the alternative, Count Six is required to be dismissed as it relies on a statutory predicate act that did not exist at the time of the alleged conduct.

The statute in effect during the time the alleged conduct occurred is 18 U.S.C. §2255 (2005) – the version in effect prior to the 2006 amendment, eff. Jul. 27, 2006,

⁶ Points (2) and (3) are addressed together as the legal arguments overlap.

(quoted above), and having an effective date of 1999 through July 26, 2006. See endnote 1 hereto. Plaintiff's Complaint alleges that Defendant's conduct occurred during the time period **from the age of 17, January 2004 until approximately May 2005.** Complaint, ¶¶17, 18. Thus, the version in effect in 2004-2005 of 18 U.S.C. §2255 applies.

Under applicable law, the statute in effect at the time of the alleged conduct applies. See U.S. v. Scheidt, Slip Copy, 2010 WL 144837, fn. 1 (E.D. Cal. Jan. 11, 2010); U.S. v. Renga, 2009 WL 2579103, fn. 1 (E.D. Cal. Aug. 19, 2009); U.S. v. Ferenci, 2009 WL 2579102, fn. 1 (E.D. Cal. Aug. 19, 2009); U.S. v. Monk, 2009 WL 2567831, fn. 1 (E.D. Cal. Aug. 18, 2009); U.S. v. Zane, 2009 WL 2567832, fn.1 (E.D. Cal. Aug. 18, 2009). In each of these cases, the referenced footnote states –

Prior to July 27, 2006, the last sentence in Section §2255(a) read “Any person as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.” Under the civil statute, the minimum restitution amount for any violation of Section 2252 (the predicate act at issue) is \$150,000 for violations occurring after July 27, 2006 and \$50,000 for violations occurring prior to July 27, 2006.

Even with the typo (the extra “\$50,000”) at the end of the quoted sentence, it is clear that the Court applied the statute in effect at the time of the alleged criminal conduct constituting one of the statutorily enumerated predicate acts, which is consistent with applicable law discussed more fully below herein.

It is an axiom of law that “retroactivity is not favored in the law.” Bowen, 488 U.S., at 208, 109 S.Ct., at 471 (1988). As eloquently stated in Landgraf v. USI Film Products, 114 S.Ct. 1483, 1497, 511 U.S. 244, 265-66 (1994):

... the presumption against retroactive legislation is deeply rooted in our jurisprudence, and embodies a legal doctrine centuries older than our Republic. Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled

expectations should not be lightly disrupted.^{FN18} For that reason, the “principle that the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place has timeless and universal appeal.” *Kaiser*, 494 U.S., at 855, 110 S.Ct., at 1586 (SCALIA, J., concurring). In a free, dynamic society, creativity in both commercial and artistic endeavors is fostered by a rule of law that gives people confidence about the legal consequences of their actions.

FN18. See *General Motors Corp. v. Romein*, 503 U.S. 181, 191, 112 S.Ct. 1105, 1112, 117 L.Ed.2d 328 (1992) (“Retroactive legislation presents problems of unfairness that are more serious than those posed by prospective legislation, because it can deprive citizens of legitimate expectations and upset settled transactions”); [Further citations omitted].

It is therefore not surprising that the antiretroactivity principle finds expression in several provisions of our Constitution. The *Ex Post Facto* Clause flatly prohibits retroactive application of penal legislation.^{FN19} Article I, § 10, cl. 1, prohibits States from passing another type of retroactive legislation, laws “impairing the Obligation of Contracts.” The Fifth Amendment’s Takings Clause prevents the Legislature (and other government actors) from depriving private persons of vested property rights except for a “public use” and upon payment of “just compensation.” The prohibitions on “Bills of Attainder” in Art. I, §§ 9-10, prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct. See, e.g., *United States v. Brown*, 381 U.S. 437, 456-462, 85 S.Ct. 1707, 1719-1722, 14 L.Ed.2d 484 (1965). The Due Process Clause also protects the interests in fair notice and repose that may be compromised by retroactive legislation; a justification sufficient to validate a statute’s prospective application under the Clause “may not suffice” to warrant its retroactive application. *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 17, 96 S.Ct. 2882, 2893, 49 L.Ed.2d 752 (1976).

FN19. Article I contains two *Ex Post Facto* Clauses, one directed to Congress (§ 9, cl. 3), the other to the States (§ 10, cl. 1). We have construed the Clauses as applicable only to penal legislation. See *Calder v. Bull*, 3 Dall. 386, 390-391, 1 L.Ed. 648 (1798) (opinion of Chase, J.).

These provisions demonstrate that retroactive statutes raise particular concerns. The Legislature’s unmatched powers allow it to sweep away settled expectations suddenly and without individualized consideration. Its responsivity to political pressures poses a risk that it may be tempted to use retroactive legislation as a means of retribution against unpopular groups or individuals. As Justice Marshall observed in his opinion for **1498 the Court in *Weaver v. Graham*, 450 U.S. 24, 101 S.Ct. 960, 67 L.Ed.2d 17 (1981), the *Ex Post Facto* Clause not only ensures that individuals have “fair warning” about the effect of criminal statutes, but also “restricts governmental power by restraining arbitrary and potentially vindictive legislation.” *Id.*, at 28-29, 101 S.Ct., at 963-964 (citations omitted).^{FN20}

FN20. See *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 513-514, 109 S.Ct. 706, 732, 102 L.Ed.2d 854 (1989) (“Legislatures are primarily policymaking bodies that promulgate rules to govern future conduct. The constitutional prohibitions against the enactment of *ex post facto* laws and bills of attainder reflect a valid concern about the use of the political process to punish or characterize past conduct of

private citizens. It is the judicial system, rather than the legislative process, that is best equipped to identify past wrongdoers and to fashion remedies that will create the conditions that presumably would have existed had no wrong been committed”) (STEVENS, J., concurring in part and concurring in judgment); *James v. United States*, 366 U.S. 213, 247, n. 3, 81 S.Ct. 1052, 1052, n. 3, 6 L.Ed.2d 246 (1961) (retroactive punitive measures may reflect “a purpose not to prevent dangerous conduct generally but to impose by legislation a penalty against specific persons or classes of persons”).

These well entrenched constitutional protections and presumptions against retroactive application of legislation establish that 18 U.S.C. §2255 (2005) in effect at the time of the alleged conduct applies to the instant action, and not the amended version.

B. Not only is there no clear express intent stating that the statute is to apply retroactively, but applying the current version of the statute, as amended in 2006, would be in clear violation of the Ex Post Facto Clause of the United States Constitution as it would be applied to events occurring before its enactment and would increase the penalty or punishment for the alleged crime. U.S. Const. Art. 1, §9, cl. 3, §10, cl. 1. *U.S. v. Seigel*, 153 F.3d 1256 (11th Cir. 1998); *U.S. v. Edwards*, 162 F.3d 87 (3d Cir. 1998); and generally, *Calder v. Bull*, 3 U.S. 386, 390, 1 L.Ed. 648, 1798 WL 587 (*Calder*) (1798).

The United States Constitution provides that “[n]o Bill of Attainder or ex post facto Law shall be passed” by Congress. U.S. Const. art. I, § 9, cl. 3. A law violates the Ex Post Facto Clause if it “ ‘appli[es] to events occurring before its enactment ... [and] disadvantage[s] the offender affected by it’ by altering the definition of criminal conduct or increasing the punishment for the crime.” *Lynce v. Mathis*, 519 U.S. 433, 117 S.Ct. 891, 137 L.Ed.2d 63 (1997) (quoting *Weaver v. Graham*, 450 U.S. 24, 29, 101 S.Ct. 960, 67 L.Ed.2d 17 (1981)).

U.S. v. Siegel, 153 F.3d 1256, 1259 (11th Cir. 1998).

§2255 is contained in Title 18 of the United States Codes - “Crimes and Criminal Procedure, Part I. Crimes, Chap. 110. Sexual Exploitation and Other Abuse of Children.” 18 U.S.C. §2255 (2005), is entitled *Civil remedy for personal injuries*, and imposes a presumptive minimum of damages in the amount of \$50,000, should Plaintiff prove any

violation of the specified criminal statutes and that she suffered personal injury and sustained actual damages. Thus, the effect of the 2006 amendments, effective July 27, 2006, would be to triple the amount of the statutory minimum previously in effect during the time of the alleged acts.

The statute, as amended in 2006, contains no language stating that the application is to be retroactive. Thus, there is no manifest intent that the statute is to apply retroactively, and, accordingly, the statute in effect during the time of the alleged conduct is to apply. Landgraf v. USI Film Products, supra, at 1493, (“A statement that a statute will become effective on a certain date does not even arguably suggest that it has any application to conduct that occurred at an earlier date.”).

This statute was enacted as part of the Federal Criminal Statutes targeting sexual predators and sex crimes against children. H.R. 3494, “Child Protection and Sexual Predator Punishment Act of 1998;” House Report No. 105-557, 11, 1998 U.S.C.A.N. 678, 679 (1998). Quoting from the “Background and Need For Legislation” portion of the House Report No. 105-557, 11-16, H.R. 3494, of which 18 U.S.C. §2255 is included, is described as “the most comprehensive package of new crimes and increased penalties ever developed in response to crimes against children, particularly assaults facilitated by computers.” Further showing that §2255 was enacted as a criminal penalty or punishment, “Title II – Punishing Sexual Predators,” Sec. 206, from House Report No. 105-557, 5-6, specifically includes reference to the remedy created under §2255 as an additional means of punishing sexual predators, along with other penalties and punishments. Senatorial Comments in amending §2255 in 2006 confirm that the creation of the presumptive minimum damage amount is meant as an additional penalty against

those who sexually exploit or abuse children. 2006 WL 2034118, 152 Cong. Rec. S8012-02. Senator Kerry refers to the statutorily imposed damage amount as “penalties.” Id.

The cases of U.S. v. Siegel, supra (11th Cir. 1998), and U.S. v. Edwards, supra (3d Cir. 1998), also support Defendant’s position that application of the current version of 18 U.S.C. §2255 would be in clear violation of the Ex Post Facto Clause. In Siegel, the Eleventh Circuit found that the Ex Post Facto Clause barred application of the Mandatory Victim Restitution Act of 1996 (MVRA) to the defendant whose criminal conduct occurred before the effective date of the statute, 18 U.S.C. §3664(f)(1)(A), even though the guilty plea and sentencing proceeding occurred after the effective date of the statute. On July 19, 1996, the defendant Siegel pleaded guilty to various charges under 18 U.S.C. §371 and §1956(a)(1)(A), (conspiracy to commit mail and wire fraud, bank fraud, and laundering of money instruments; and money laundering). He was sentenced on March 7, 1997. As part of his sentence, Siegel was ordered to pay \$1,207,000.00 in restitution under the MVRA which became effective on April 24, 1996. Pub.L. No. 104-132, 110 Stat. 1214, 1229-1236. The 1996 amendments to MVRA required that the district court must order restitution in the full amount of the victim’s loss without consideration of the defendant’s ability to pay. Prior to the enactment of the MVRA and under the former 18 U.S.C. §3664(a) of the Victim and Witness Protection Act of 1982 (VWPA), Pub.L. No. 97-291, 96 Stat. 1248, the court was required to consider, among other factors, the defendant’s ability to pay in determining the amount of restitution.

When the MVRA was enacted in 1996, Congress stated that the amendments to the VWPA “shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment

of this Act [Apr. 24, 1996].” Siegel, supra at 1258. The alleged crimes occurred between February, 1988 to May, 1990. The Court agreed with the defendant’s position that 1996 MVRA “should not be applied in reviewing the validity of the court’s restitution order because to do so would violate the Ex Post Facto Clause of the United States Constitution. See U.S. Const. art I, §9, cl. 3.”

The Ex Post Facto analysis made by the Eleventh Circuit in Siegel is applicable to this action. In resolving the issue in favor of the defendant, the Court first considered whether a restitution order is a punishment. Id., at 1259. In determining that restitution was a punishment, the Court noted that §3663A(a)(1) of Title 18 expressly describes restitution as a “penalty.” In addition, the Court also noted that “[a]lthough not in the context of an ex post facto determination, ... restitution is a ‘criminal penalty meant to have strong deterrent and rehabilitative effect.’ United States v. Twitty, 107 F.3d 1482, 1493 n. 12 (11th Cir.1997).” Second, the Court considered “whether the imposition of restitution under the MVRA is an increased penalty as prohibited by the Ex Post Facto Clause.” Id., at 1259. In determining that the application of the 1996 MVRA would indeed run afoul of the Constitution’s Ex Post Facto Clause, the Court agreed with the majority of the Circuits that restitution under the 1996 MVRA was an increased penalty.⁷ “The effect of the MVRA can be detrimental to a defendant. Previously, after considering the defendant’s financial condition, the court had the discretion to order restitution in an amount less than the loss sustained by the victim. Under the MVRA, however, the court

⁷ The Eleventh Circuit, in holding that “the MVRA cannot be applied to a person whose criminal conduct occurred prior to April 24, 1996,” was “persuaded by the majority of districts on this issue.” “Restitution is a criminal penalty carrying with it characteristics of criminal punishment.” Siegel, supra at 1260. The Eleventh Circuit is in agreement with the Second, Third, Eighth, Ninth, and D.C. Circuits. See U.S. v. Futrell, 209 F.3d 1286, 1289-90 (11th Cir. 2000).

must order restitution to each victim in the full amount.” Id., at 1260. See also U.S. v. Edwards, 162 F.2d 87 (3rd Circuit 1998).

In the instant case, in answering the first question, it is clear that that imposition of a minimum amount of damages, regardless of the amount of actual damages suffered by a minor victim, is meant to be a penalty or punishment. See statutory text and House Bill Reports, cited above herein, consistently referring to the presumptive minimum damages amount under §2255 as “punishment” or “penalties.” According to the Ex Post Facto doctrine, although §2255 is labeled a “civil remedy,” such label is not dispositive; “if the effect of the statute is to impose punishment that is criminal in nature, the ex post facto clause is implicated.” See generally, Roman Catholic Bishop of Oakland v. Superior Court, 28 Cal.Rptr.3d 355, at 360, citing Kansas v. Hendricks, 521 U.S. 346, 360-61 (1997). The effect of applying the 2006 version of §2255 would be to triple the amount of the presumptive minimum damages to a minor who proves the elements of her §2255 claim. The fact that a plaintiff proceeding under §2255 has to prove a violation of a criminal statute and suffer personal injury to recover damages thereunder, further supports that the imposition of a minimum amount, regardless of a victim’s actual damages sustained, is meant and was enacted as additional punishment or penalty for violation of criminal sexual exploitation and abuse of minors.

Accordingly, this Court is required to apply the statute in effect at the time of the alleged criminal acts. Not only is there no language in the 2006 statute stating that it is to apply retroactively, but further, such application of the 2006 version of 18 U.S.C. §2255 to acts that occurred prior to its effective date would have a detrimental and punitive

effect on Defendant by tripling the presumptive minimum of damages available to a plaintiff, regardless of the actual damages suffered.⁸

C. As discussed above, 18 U.S.C. §2255 was enacted as part of the criminal statutory scheme to punish and penalize those who sexually exploit and abuse minors, and thus, the Ex Post Fact Clause prohibits a retroactive application of the 2006 amended version. Even if one were to argue that the statute is “civil” and the damages thereunder are “civil” in nature, under the analysis provided by the United States Supreme Court in Landgraf v. USI Film Products, 511 U.S. 244, 114 S.Ct. 1483 (1994), pertaining to civil statutes, not only is there no express intent by Congress to apply the new statute to past conduct, but also, the clear effect of retroactive application of the statute would be to increase the potential liability for past conduct from a minimum of \$50,000 to \$150,000, and thus in violation of the constitutional prohibitions against such application. As noted, 18 U.S.C. §2255 is entitled “*Civil remedy for personal injuries.*” Notwithstanding this label, the statute was enacted as part of the criminal statutory scheme to punish those who sexually exploit and abuse minors. Regardless of the actual damages suffered or proven by a minor, as long as a minor proves violation of a specified statutory criminal act under §2255 and personal injury, the defendant is held liable for the statutory imposed minimum.

Notwithstanding the above legal analysis, in the recent case of Individual Known to Defendant As 08MIST096.JPG and 08mist067.jpg v. Falso, 2009 WL 4807537 (N.D. N.Y. Dec. 9, 2009), United States District Court for the Northern District of New York

⁸ Plaintiff has attempted to allege 6 counts pursuant to 18 U.S.C. §2255. If it is Plaintiff’s position that she is entitled to the minimum damage amount on each count, regardless of her actual damages, the absurdity of a retroactive application is more magnified. Clearly, the result is an unconstitutional increase in either a penalty or civil liability.

addressed the issue of whether §2255 is a civil or criminal statute for purposes of the constitutional prohibition against double jeopardy. The New York Court stated that “looking to the plain language of §2255(a), it is clear that the statutory intent was to provide a civil remedy. This is exemplified by the title ... and the fact that the statute aims to provide compensation to individuals who suffered personal injury as a result of criminal conduct against them.” The New York Court in analyzing whether §2255 violated the Constitutional prohibition against double jeopardy, concluded that although the behavior to which §2255 is criminal, it did not find that the “primary aim” was “retribution and deterrence.” “The statute serves civil goals.” The “primary aim” is “the compensation for personal injuries sustained as a result of criminal conduct.”

Therefore, because Jane Doe 103 has invoked the provisions of the criminal Non-Prosecution Agreement (NPA) between EPSTEIN and USAO (see paragraphs 25 and 26 of complaint), plaintiff cannot avoid the full protection of the rule of lenity and due process to which EPSTEIN is entitled in the context of these unique factual circumstances.

Although there does not exist any definitive ruling of whether the damages awarded under §2255 are meant as criminal punishment or a civil damages award, Defendant is still entitled to a determination as a matter of law that the statute in effect at the time of the alleged criminal conduct applies.

As explained by the Landgraf court, *supra* at 280, and at 1505,⁹

⁹ In Landgraf, the United States Supreme Court affirmed the judgment of the Court of Appeals and refused to apply new provisions of the Civil Rights Act of 1991 to conduct occurring before the effective date of the Act. The Court determined that statutory text in question, §102, was subject to the presumption against statutory retroactivity.

When a case implicates a federal statute enacted after the events in suit, the court's first task is to determine whether Congress has expressly prescribed the statute's proper reach. If Congress has done so, of course, there is no need to resort to judicial default rules. When, however, the statute contains no such express command, the court must determine whether the new statute would have retroactive effect, *i.e.*, whether it would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed. If the statute would operate retroactively, our traditional presumption teaches that it does not govern absent clear congressional intent favoring such a result.

Here, there is no clear expression of intent regarding the 2006 Act's application to conduct occurring well before its enactment. Clearly, however, as discussed in part B herein, the presumptive minimum amount of damages of \$150,000 was enacted as a punishment or penalty upon those who sexually exploit and abuse minors. See discussion of House Bill Reports and Congressional background above herein. The amount triples the previous amount for which a defendant might be found liable, regardless of the amount of actual damages a plaintiff has suffered and proven. The new statute imposes a substantial increase in the monetary liability for past conduct.

As stated in Landgraf, "the extent of a party's liability, in the civil context as well as the criminal, is an important legal consequence that cannot be ignored." Courts have consistently refused to apply a statute which substantially increases a party's liability to conduct occurring before the statute's enactment. Landgraf, *supra* at 284-85. Even if plaintiff were to argue that retroactive application of the new statute "would vindicate its purpose more fully," even that consideration is not enough to rebut the presumption against retroactivity. *Id.*, at 285-86. "The presumption against statutory retroactivity is founded upon sound considerations of general policy and practice, and accords with long held and widely shared expectations about the usual operation of legislation." *Id.*

Thus, Plaintiff's action should be dismissed and she should be required to plead her action under the applicable version of 18 U.S.C. §2255.

Motion For More Definite Statement and To Strike, Rule 12(e) and (f), F.R.C.P.

As noted above, Plaintiff alleges that she was 17 year old high school student as of January, 2004, and that the alleged conduct involving EPSTEIN occurred “between approximately January 2004 and May 2005. Thus, Plaintiff had to be 18 (no longer a minor) by January of 2005. Under the principles of statutory construction, the language of §2255(a) is clear – “Any **minor** who is a victim of a violation of section ...of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and **shall recover the actual damages such minor sustains** and the cost of the suit, including a reasonable attorney's fee. **Any minor** as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.”

As Plaintiff's date of birth is significant to her §2255 claim, she should be required to more definitely state her date of birth so that Defendant and this Court are able to determine precisely when she reached the age of majority. (The age of majority under both federal and state law is 18 years old. See 18 U.S.C. §2256(1), defining a “minor” as “any person under the age of eighteen years;” and §1.01, *Definitions*, Fla. Stat., defining “minor” to include “any person who has not attained the age of 18 years.”) In addition, when Plaintiff reached the age of majority may impact her ability to even assert a §2255 claim. See §2255(b).

To the extent that Plaintiff is relying on any alleged conduct that occurred after her 18 birthday as an element of her §2255 claim, such allegations should be stricken as immaterial and she should be required to more definitely state the dates of the alleged conduct. See Rule 12(f). Defendant also seeks to strike ¶¶10, 11, 12, 13, 14, 15, and 16,

of Plaintiff's Complaint as immaterial and impertinent. None of the allegations in those paragraphs specifically pertain to the Plaintiff. Not until ¶17 does Plaintiff assert allegations pertaining to her and the conduct of Defendant directly involving her. What EPSTEIN may or may not have allegedly done with respect to other alleged girls does not effect Plaintiff's claim brought pursuant to §2255. The allegations in ¶¶10-16 are not related to the elements of Plaintiff's §2255 claim and, thus, are required to be stricken.

Conclusion

Pursuant to the above, Plaintiff entire action is required to be dismissed. 18 U.S.C. §2255 allows for a single recovery of the actual damages sustained in proven; neither the "actual damages" sustained not the statutory minimum is subject to duplication or multiplication on a per violation or per count or per incident basis. Also, the statute in effect during the time of the alleged conduct applies, not the version as amended, effective July 27, 2006. Count VI is also required to be dismissed as it relies on a statutory predicate act that did not take effect until 2006. In addition, Plaintiff should be required to more definitely state her date of birth, and any conduct occurring after her 18th birthday should be stricken, and ¶¶10 – 16 of the Complaint should also be stricken.

WHEREFORE, Defendant requests that this Court dismiss the entire action against him, and further grant his motion for more definite statement and to strike.

Robert D. Critton, Esq.
Attorney for Defendant

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 ___ day of _____, 2010.

Robert C. Josefsberg, Esq.
Katherine W. Ezell, Esq.



te 800

Counsel for Plaintiff

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



012

Counsel for Defendant Jeffrey Epstein

Respectfully submitted,

By: _____
ROBERT D. CRITTON, JR., ESQ.



MICHAEL J. PIKE, ESQ.



(Counsel for Defendant Jeffrey Epstein)

¹ 18 USCA §2255 (1999-July 26, 2006):

PART I--CRIMES
CHAPTER 110--SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

§ 2255. Civil remedy for personal injuries

(a) Any minor who is a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title

and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than \$50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

CREDIT(S)

(Added Pub.L. 99-500, Title I, § 101(b) [Title VII, § 703(a)], Oct. 18, 1986, 100 Stat. 1783-75, and amended Pub.L. 99-591, Title I, § 101(b) [Title VII, § 703(a)], Oct. 30, 1986, 100 Stat. 3341-75; Pub.L. 105-314, Title VI, § 605, Oct. 30, 1998, 112 Stat. 2984.)

18 U.S.C. §2255, as amended 2006, Effective July 27, 2006:

PART I--CRIMES

CHAPTER 110--SEXUAL EXPLOITATION AND OTHER ABUSE OF

CHILDREN

§ 2255. Civil remedy for personal injuries

(a) **In general.**--Any person who, while a minor, was a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee. Any person as described in the preceding sentence shall be deemed to have sustained damages of no less than \$150,000 in value.

(b) **Statute of limitations.**--Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

CREDIT(S)

(Added Pub.L. 99-500, Title I, § 101(b) [Title VII, § 703(a)], Oct. 18, 1986, 100 Stat. 1783-75, and amended Pub.L. 99-591, Title I, § 101(b) [Title VII, § 703(a)], Oct. 30, 1986, 100 Stat. 3341-75; Pub.L. 105-314, Title VI, § 605,

Oct. 30, 1998, 112 Stat. 2984; Pub.L. 109-248, Title VII, § 707(b), (c), July 27, 2006, 120 Stat. 650.)

² Paragraphs 30, 34, 38, 43, 48, and 52 of Plaintiff's Complaint alleges:

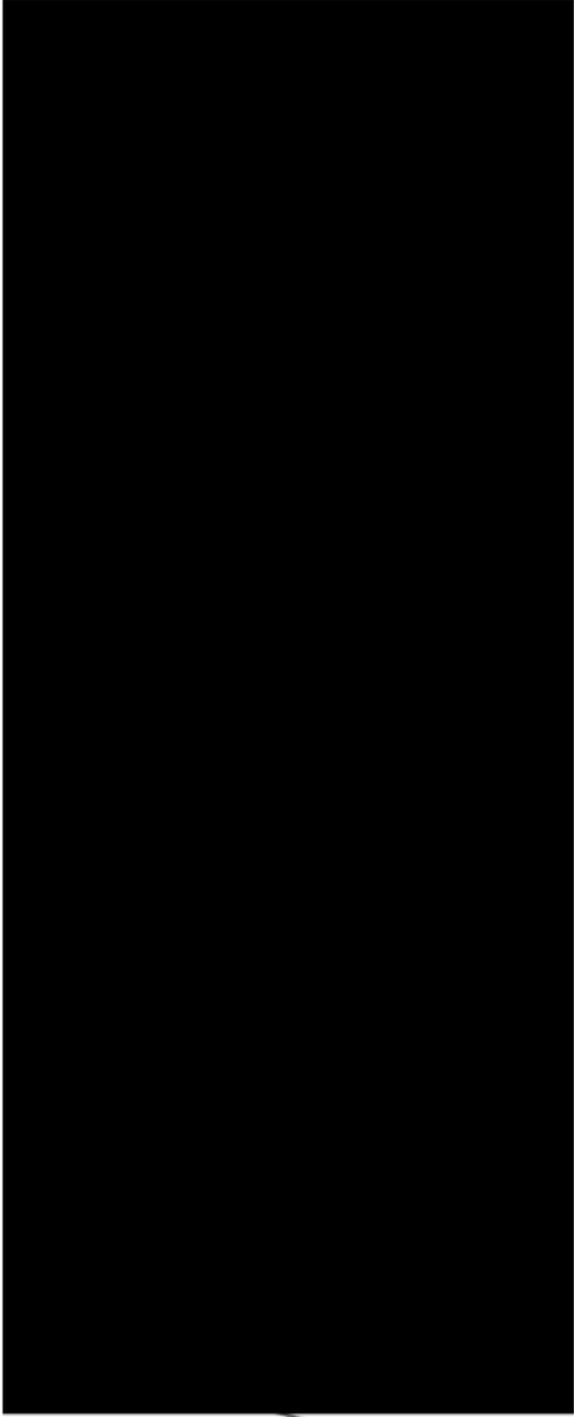
30. As a direct and proximate result of the offenses enumerated in 18 U.S.C. §2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

* * * * *

The "Wherefore" clauses in each of the six counts are also identical –

WHEREFORE Plaintiff demands judgment against Defendant for all damages available under 18 U.S.C. §2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other relief this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

STATE COURT CRIMINAL PLEADINGS



Report Selection Criteria

Case ID: 502006CF009454AXXXMB
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: 502006CF009454AXXXMB
Case Caption: EPSTEIN, JEFFREY
Division: W - COLBATH
Filing Date: Wednesday, July 19th, 2006
Court: CF - FELONY
Location: MB - MAIN BRANCH
Jury: N-Non Jury
Type: CF - FELONY
Status: CLSD - CLOSED CASE

Related Cases

No related cases were found.

Case Event Schedule

Event	Date/Time	Room	Location	Judge/Commissioner
CASE DISPOSITION		MAIN BRANCH	COURTROOM 11F	COLBATH, JUDGE JEFFREY
CASE DISPOSITION		MAIN BRANCH	COURTROOM 11F	COLBATH, JUDGE JEFFREY

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name	Aliases:	
1			DEFENDANT	Z4167391	EPSTEIN, JEFFREY E	Aliases:	none
3	1	22-AUG-2006	ATTORNEY	ATTY	MALINSKI, NORMAN	Aliases:	none

4			JUDGE	W	COLBATH, JUDGE JEFFREY	Aliases: none
5	1	30-JUN-2008	ATTORNEY	0262013	GOLDBERGER , ESQ, JACK A	Aliases: none

Docket Entries

Docket Number	Docket Type	Book and Page No.	Attached To:
	ZCAPS - CONVERSION 1ST CAPIAS ISS DATE		
Filing Date:	17-JUL-2006		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:	PerSchedule Tracking# 324329		
	ZINFO - CONVERSION INFO FILING DATE		
Filing Date:	19-JUL-2006		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:			
1	JIDV - DOCKET HISTORY		
Filing Date:	19-JUL-2006		
Filing Party:			
Disposition Amount:			
Docket Text:	ARREST WARRANT DIVISION W ORDERED BY JUDGE KROLL ON 071706. ISSUED ON 071706. BOND SET PER SCHEDULE.		
2	JIDV - DOCKET HISTORY		
Filing Date:	19-JUL-2006		
Filing Party:			
Disposition Amount:			
Docket Text:	INDICTMENT.		
2 A	JIDV - DOCKET HISTORY		

Filing Date:	23-JUL-2006
Filing Party:	
Disposition Amount:	
Docket Text:	ARREST RECORD.
3	JIDV - DOCKET HISTORY
Filing Date:	25-JUL-2006
Filing Party:	
Disposition Amount:	
Docket Text:	CASH BOND. BOND POSTED ON 072306 RECEIPT: 00073142 BOND AMT \$3000
4	JIDV - DOCKET HISTORY
Filing Date:	27-JUL-2006
Filing Party:	
Disposition Amount:	
Docket Text:	NOTICE OF ARRAIGNMENT.
5	JIDV - DOCKET HISTORY
Filing Date:	16-AUG-2006
Filing Party:	
Disposition Amount:	
Docket Text:	NOTICE OF UNAVAILABILITY FILED BY L. BELOHLAVEK,ASA.BH
6	JIDV - DOCKET HISTORY
Filing Date:	22-AUG-2006
Filing Party:	
Disposition Amount:	
Docket Text:	PRAECIPE FOR APPEARANCE, WAIVER OF ARRAIGNMENT, PLEA OF NOT GUILTY AND REQUEST FOR JURY TRIAL FILED BY JACK GOLDBERGER. BH
	JIFM - MISD/FELONY RECORD HISTORY
Filing Date:	06-OCT-2006
Filing Party:	
Disposition Amount:	
Docket Text:	JIFM JUDICIAL INFORMATION FELONY RECORD WRITTEN NG PLEA: 08/22/06 CONFLICT Case: N DOWN-FILED To: FEE Case: N PTI Date: REOPEN: N PTI Reject: N Date: COMMENTS: None

FAHIS - FELONY/MISD ARRAIGN HISTORY	
Filing Date:	06-OCT-2006
Filing Party:	
Disposition Amount:	
Docket Text:	X/JIFA FELONY-MISDEMEANOR ARRAIGNMENT RECORD DEF IS EPSTEIN JEFFREY E LEGACY CASE NUMBER: 41673917332767 PRAECIPE AND WAIVER FILED BY: DATE: 082206 DATE: JUDGE: COURT: DEFENSE ATTY: PD APPT: DEFENDANT PRESENT: PLEA: ADVISED OF RIGHTS: ARRAIGNMENT PASSED TO: DATE: TIME: COURT: DEFENDANT RELEASED, FAILURE OF STATE TO FILE DATE: PTI DATE: COMMENTS: None
CALHS - CALENDAR HISTORY	
Filing Date:	06-OCT-2006
Filing Party:	
Disposition Amount:	
Docket Text:	08/25/06 0845 CLDR= F DIV= AW ARRAIGNMENT DELETED- ON 082506 RESET TO 0000 DIV: REMARKS: (CR-DAMES)-, PRAECIPE FOR APPEARANCE & WAIVER FILED ON 02206-SEND FILE TO JUDGE FOR DATE (D/ARS)
7	JDN - JUDICIAL NOTES
Filing Date:	16-NOV-2006
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SETTING CASE FOR CASE DISPOSITION ON 12/8/06 @ 8:30 A.M.
EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	30-NOV-2006
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
8	NOH - NOTICE OF HEARING
Filing Date:	04-DEC-2006
Filing Party:	
Disposition Amount:	
Docket Text:	Docket entry for the letter produced from CSAEOUT on 04-DEC-2006 by LPRATTS.

EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	07-DEC-2006
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
EVCON - EVENT CONTINUED	
Filing Date:	07-DEC-2006
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	AGREED ORDER CONTINUING CASE DISPO.
9	WST - WAIVER OF SPEEDY TRIAL
Filing Date:	07-DEC-2006
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY JACK GOLDBERGER (D/ARS)
10	AGOR - AGREED ORDER
Filing Date:	07-DEC-2006
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) CONTINUING CASE DISPO PRESENTLY SCHEDULED 08-DEC AT 0830AM TO 08-MARCH-2007 AT 0830AM.
11	RMAL - RETURNED MAIL
Filing Date:	11-DEC-2006
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	UNABLE TO FORWARD
12	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	21-FEB-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	07-18 THRU 7-20 FILED BY ASA
EVSCH - HEARING EVENT SCHEDULED	

Filing Date:	05-MAR-2007
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVRST - EVENT RESET
Filing Date:	05-MAR-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	AGREED ORDER CONTINUING CASE DISPO
13	AGOR - AGREED ORDER
Filing Date:	05-MAR-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) CONTINUING CASE DISPO PREVIOUSLY SET FOR 08-MAR-2007 AND RESETTING FOR CASE DISPO ON 16-MAY-2007 AT 0830AM.
14	NOH - NOTICE OF HEARING
Filing Date:	07-MAR-2007
Filing Party:	
Disposition Amount:	
Docket Text:	Docket entry for the letter produced from CSAEOUT on 07-MAR-2007 by DFELDER.
15	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	12-APR-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY ASA 4-30 THRU 05-04
	EVCON - EVENT CONTINUED
Filing Date:	11-MAY-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	AGREED ORDER CONTINUING
16	AGOR - AGREED ORDER
Filing Date:	11-MAY-2007

Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) CONTINUING CASE DISPO FROM 16-MAY-2007 TO 16-NOV-2007 AT 0830AM.
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	14-MAY-2007
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	15-MAY-2007
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVCAN - EVENT CANCELLED/SETTLED
Filing Date:	15-MAY-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CANCEL 051607/ADD TO CALENDAR 111607-PER J.A NOTE FILED 051507 (D/ARS)
17	JDN - JUDICIAL NOTES
Filing Date:	15-MAY-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FROM J.A.CANCEL FROM 051607/ADD TO CALENDAR 111607, 0830AM FOR CASE DISPOSITION FILED (D/ARS)
18	NOH - NOTICE OF HEARING
Filing Date:	16-MAY-2007
Filing Party:	
Disposition Amount:	
Docket Text:	Docket entry for the letter produced from CSAEOUT on 16-MAY-2007 by DFELDER.
19	NOUN - NOTICE OF UNAVAILABILITY

Filing Date:	25-JUL-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	8-22 THRU 24 FILED BY ASA
20	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	08-AUG-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY ASA
21	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	12-SEP-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	9-18 THRU 20 FILED BY ASA
22	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	01-OCT-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	10-09 THRU 12 FILED BY ASA
	EVCAN - EVENT CANCELLED/SETTLED
Filing Date:	30-OCT-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	30-OCT-2007
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
23	AGOR - AGREED ORDER
Filing Date:	30-OCT-2007
Filing Party:	EPSTEIN, JEFFREY E

Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) SCHEDULING CASE FOR TRIAL - CANCELLING CASE FOR 11/16/07 @ 8:30 AM FOR CASE DISPOSITION AND SETTING FOR 1/07/08 @ 9:00 AM FOR JURY TRIAL
24	JDN - JUDICIAL NOTES
Filing Date:	30-OCT-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CASE CANCELLED FOR 11/16/07 @ 8:30 AM FOR CASE DISPO AND 11/20/07 @ 8:30 AM FOR PLEA CONFERENCE (NOT SCHEDULED)
25	NOH - NOTICE OF HEARING
Filing Date:	06-NOV-2007
Filing Party:	
Disposition Amount:	
Docket Text:	Docket entry for the letter produced from CSAEOUT on 06-NOV-2007 by DFELDER.
26	NOH - NOTICE OF HEARING
Filing Date:	10-DEC-2007
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SETTING CASE FOR 1/04/08 FOR PLEA CONFERENCE - FILED BY J. GOLBERGER
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	11-DEC-2007
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
27	MOT - MOTION
Filing Date:	02-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	AGREED MOTION TO CONTINUE TRIAL - FILED BY J. GOLDBERGER

	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	03-JAN-2008
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVCAN - EVENT CANCELLED/SETTLED
Filing Date:	03-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVCAN - EVENT CANCELLED/SETTLED
Filing Date:	03-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
28	LTR - LETTER
Filing Date:	03-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO JUDGE MCSORLEY FROM JACK A. GOLDBERGER RE: AGREED MOTION TO CONTINUE.
29	MOT - MOTION
Filing Date:	03-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	AGREED MOTION TO CONTINUE TRIAL FILED BY JACK A. GOLDBERGER.
30	AGOR - AGREED ORDER
Filing Date:	03-JAN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
	(JUDGE MCSORLEY) CONTINUING TRIAL FROM 07-JAN-2008,

Docket Text:	CANCELLING PLEA CONFERENCE ON 04-JAN-2008 AND SETTING CASE FOR A STATUS CHECK ON 10-MAR-2008 AT 08:30AM.	
31	NOH - NOTICE OF HEARING	
Filing Date:	28-JAN-2008	
Filing Party:		
Disposition Amount:		
Docket Text:	Docket entry for the letter produced from CSAEOUT on 28-JAN-2008 by VBUCKLEY.	
32	DEPO - DEPOSITION	
Filing Date:	31-JAN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	(NOTICE OF) FILED BY J. GOLDBERGER	
32 A	MFPO - MOTION FOR PROTECTIVE ORDER	
Filing Date:	06-FEB-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	FILED BY THEODORE LEOPOLD	
33	MFPO - MOTION FOR PROTECTIVE ORDER	
Filing Date:	07-FEB-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	FILED BY THEODORE LEOPOLD, ESQ.	
34	ORD - ORDER	
Filing Date:	07-FEB-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	(JUDGE MCSORLEY) ATTORNEY FOR DEFT SHALL RESPOND IN WRITING TO SAID MOTION W/IN 5 DAYS FROM DATE OF THIS ORDER, COURTESY COPY OF SAME SHALL BE SUBMITTED TO UNDERSIGNED'S CHAMBERS.	
34 A	RESP - RESPONSE TO:	
Filing Date:	08-FEB-2008	

Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	MOTION FOR PROTECTIVE ORDER FILED BY JACK GOLDBERGER
34 B	NOTD - NOTICE OF TAKING DEPOSITION
Filing Date:	08-FEB-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY JACK GOLDBERGER
34 C	NOTD - NOTICE OF TAKING DEPOSITION
Filing Date:	11-FEB-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY JACK GOLDBERGER.
35	RESP - RESPONSE TO:
Filing Date:	12-FEB-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	MOTION FOR PROTECTIVE ORDER - FILED BY J. GOLDBERGER
36	ORDD - ORDER DENYING
Filing Date:	12-FEB-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) "MOTION FOR PROTECTIVE ORDER"
37	NOUN - NOTICE OF UNAVAILABILITY
Filing Date:	19-FEB-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	4-07 THRU 10 FILED BY ASA
	EVRST - EVENT RESET
Filing Date:	06-MAR-2008
Filing Party:	EPSTEIN, JEFFREY E

Disposition Amount:		
Docket Text:	<i>none.</i>	
38	AGOR - AGREED ORDER	
Filing Date:	06-MAR-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	(JUDGE MCSORLEY) CASE IS SET FOR FINAL TRIAL ON 7/8/2008 AT 8:30 AM. PARTIES ARE FREE TO SCHEDULE MATTER FOR PLEA CONFERENCE PRIOR TO THAT DATE IF AN AGREEMENT IS REACHED IN THIS MATTER	
	EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	07-MAR-2008	
Filing Party:		
Disposition Amount:		
Docket Text:	<i>none.</i>	
39	NOH - NOTICE OF HEARING	
Filing Date:	10-MAR-2008	
Filing Party:		
Disposition Amount:		
Docket Text:	Docket entry for the letter produced from CSAEOUT on 10-MAR-2008 by VBUCKLEY.	
40	NOTD - NOTICE OF TAKING DEPOSITION	
Filing Date:	24-MAR-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	FILED BY J. GOLDBERGER.	
41	NOTD - NOTICE OF TAKING DEPOSITION	
Filing Date:	24-MAR-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	FILED BY J. GOLDBERGER.	
41 A	NOTD - NOTICE OF TAKING DEPOSITION	

Filing Date:	26-MAR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FILED BY JACK A. GOLDBERGER,ESQ.
42	SRSV - SUBPOENA RETURNED / SERVED
Filing Date:	28-MAR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
43	SRNS - SUBPOENA RETURNED / NOT SERVED
Filing Date:	28-MAR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
44	SRSV - SUBPOENA RETURNED / SERVED
Filing Date:	28-MAR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
45	MOT - MOTION
Filing Date:	01-APR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FOR PROTECTIVE ORDER - FILED BY J. HERMAN
46	LTR - LETTER
Filing Date:	03-APR-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FROM ATTY TO JDG MCSORLEY RE: MOT FOR PROTECTIVE ORDER MCSORLEY
47	NOT - NOTICE
Filing Date:	04-APR-2008

Filing Party:		EPSTEIN, JEFFREY E
Disposition Amount:		
Docket Text:		OF WITHDRAWAL OF MOTION FOR PROTECTIVE ORDER FILED BY J. HERMAN.
48	SRSV - SUBPOENA RETURNED / SERVED	
Filing Date:		10-APR-2008
Filing Party:		EPSTEIN, JEFFREY E
Disposition Amount:		
Docket Text:		<i>none.</i>
49	SRSV - SUBPOENA RETURNED / SERVED	
Filing Date:		10-APR-2008
Filing Party:		EPSTEIN, JEFFREY E
Disposition Amount:		
Docket Text:		<i>none.</i>
50	SRSV - SUBPOENA RETURNED / SERVED	
Filing Date:		10-APR-2008
Filing Party:		EPSTEIN, JEFFREY E
Disposition Amount:		
Docket Text:		<i>none.</i>
		EVSCH - HEARING EVENT SCHEDULED
Filing Date:		27-JUN-2008
Filing Party:		
Disposition Amount:		
Docket Text:		<i>none.</i>
51	JDN - JUDICIAL NOTES	
Filing Date:		27-JUN-2008
Filing Party:		EPSTEIN, JEFFREY E
Disposition Amount:		
Docket Text:		SET CASE FOR 6/30/08 @ 8:30 AM FOR STATUS CHECK
		EVCAN - EVENT CANCELLED/SETTLED

Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PLED 063008. MER
	EVHLD - EVENT HELD
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-DAMES. PLEAD & ADJ GUILTY AS CHARGED. PBCJ 12 MOS, W/CD FOR 1 DAY. BOND DISCH. DNA SWAB. MER
51 A	GUIL - JUDGMENT OF GUILTY
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
51 B	FNGR - FINGERPRINTS
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
51 C	SORD - SENTENCE ORDER
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
51 D	RITE - WAIVER OF RIGHTS
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
51 E	PLS - PLEA SHEET
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	

Docket Text:		<i>none.</i>
51 F	GLSS - GUIDELINE SCORESHEET	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:		<i>none.</i>
51 G	O AFC - ORDER ASSESSING FEES/COST	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	(JUDGE MCSORLEY) IN THE AMOUNT OF \$473.00 AS CONDS OF PROB. MER	
52	AREC - ARREST RECORD	
Filing Date:	01-JUL-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:		RECOMMIT
	RCMIT - RECOMMITMENT	
Filing Date:	01-JUL-2008	
Filing Party:		
Disposition Amount:		
Docket Text:		<i>none.</i>
53	SEAL - SEALED	
Filing Date:	02-JUL-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	NON-PROSECUTION AGREEMENT	
54	AGOR - AGREED ORDER	
Filing Date:	02-JUL-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	(JUDGE PUCILLO) SEALING DOCUMENT IN COURT FILE	
	CLSD - CLOSED CASE	

Filing Date:	08-JUL-2008
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
RCPT - RECEIPT FOR PAYMENT	
Filing Date:	14-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	A Payment of -\$473.00 was made on receipt CFMB30200. From Bond ID: 00073142
CHECK - CHECK PRINTED	
Filing Date:	14-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	A Disbursement of \$2,054.00 on Check Number 69429 to JACK GOLDBERGER
56	PROC - CRT REPORTER TRANSCRIPT OF
Filing Date:	22-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PLEA CONFERENCE, TAKEN 6/30/08
55	MOT - MOTION
Filing Date:	23-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FOR RETURN OF PROPERTY FILED BY JACK GOLDSTEIN, ESQ.
57	SEAL - SEALED
Filing Date:	25-AUG-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	ADDENDUM TO THE NON-PROSECUTION AGREEMENT
58	MOT - MOTION
Filing Date:	12-MAY-2009

Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(NONPARTY E.W'S) TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS.
59	ORSH - ORDER SETTING HEARING
Filing Date:	15-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR 5/29/09 MTN TO VACATE ORDER SEALING RECORDS AND UNSEALING
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	19-MAY-2009
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
60	NOH - NOTICE OF HEARING
Filing Date:	26-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR 5/29/09 10:30
62	CEF - COURT EVENT FORM
Filing Date:	29-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	01-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	NON PARTY E.W.'S MOTION TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS
	EVCAN - EVENT CANCELLED/SETTLED

Filing Date:	01-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
61	RNOH - RE-NOTICE OF HEARING
Filing Date:	01-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SETTING CASE FOR OTHER HEARING ON 6/10/2009 AT 10:30 AM FILED BY BRADLEY EDWARDS, ESQ. RE:NON PARTY E.W.'S MOTION TO VACATE ORDER SEALING AND UNSEAL RECORDS, HEARING SET FOR 5/29/2009 IS CANCELLED
63	MOT - MOTION
Filing Date:	03-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS FILED BY BRADLEY EDWARDS, ESQ
64	MOT - MOTION
Filing Date:	03-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PALM BEACH POST'S MOTION TO INTERVENE AND PETITION FOR ACESS FILED BY DEANNA SHULLMAN, ESQ.
	EVRST - EVENT RESET
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-BELTRAN. MOTION TO INTERVENE-GRANTED. NO ACTION TAKEN ON MOTION TO UNSEAL. RESET FOR MOTION HRG ON 6/25/09. BLE
65	CEF - COURT EVENT FORM
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>

EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	11-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
66	NOH - NOTICE OF HEARING
Filing Date:	11-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR MOTION TO INTERVENE AND PETITION FOR ACCESS ON 6/10/09 AT 10:40. FILED BY D. SHULLMAN, ATTY
67	NOH - NOTICE OF HEARING
Filing Date:	11-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR MOTION TO INTERVENE AND PETITION FOR ACCESS ON 6/10/09 AT 10:40. FILED BY D. SCHULLMAN, ATTY
68	MOT - MOTION
Filing Date:	15-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO INTERVENE AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUBIN, ESQ
EVHLD - EVENT HELD	
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-WIGGINS (COLBATH) DEFT PRES W/JGOLDBERG, GRANTED, CASE RESET FOR MOTION TO STAY DISCLOSURE
EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	25-JUN-2009
Filing Party:	
Disposition Amount:	

Docket Text:	TO STAY DISCLOSURE
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	25-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	TO STAY DISCLOSURE
69	CEF - COURT EVENT FORM
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
70	CEF - COURT EVENT FORM
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVHLD - EVENT HELD
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-WIGGINS. MOTION TO STAY, DENIED. WRITTEN ORDER TO FOLLOW. DOCUMENTS IN QUESTION ARE DELAYED UNTIL NOON ON THURSDAY 02-JUL-2009. MOTION TO COMPEL THE DEFT TO POST BOND - DENIED.
73	MOT - MOTION
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	FOR ATTY'S FEES AND COSTS. FILED BY D. SHULLMAN, ATTY
78	CEF - COURT EVENT FORM
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>

79	ORD - ORDER
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE COLBATH) THAT THE MOTIONS TO SEAL THE COURT RECORDS ARE DENIED. THE MOTIONS TO INTERVENE ARE GRANTED. THE MOTION TO UNSEAL THE DOCUMENTS IS GRANTED.
71	RESP - RESPONSE TO:
Filing Date:	29-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	MOTION TO STAY AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUVIN, ESQ
72	ODMO - ORDER DENYING MOTION
Filing Date:	29-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(COLBATH) TO STAY DISCLOSURE AGREEMENT
74	MOT - MOTION
Filing Date:	06-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	NONPARTY E.W.'S MOTION FOR ATTORNEY'S FEES AND COSTS FILED BY W. BERGER
75	RESP - RESPONSE TO:
Filing Date:	06-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(NTERVENER'S) MOTION TO STAY AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUVIN, ESQ
76	EXLT - EXHIBIT LIST
Filing Date:	08-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	

Docket Text:	<i>none.</i>
77	RESP - RESPONSE TO:
Filing Date:	15-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO EMERGENCY PETITION FOR WRIT OF CERTIORARI (PALM BEACH POST) FILED BY DEANNA K. SHULLMAN

PLEA IN THE CIRCUIT COURT
THE FOLLOWING IS TO REFLECT ALL TERMS OF THE NEGOTIATED SETTLEMENT

Name: Jeffrey E. Epstein

Plea: Guilty X

Case No.	Charge	Count	Lesser	Degree
06CF009454AMB	Felony Solicitation of Prostitution	1	No	3 FEL
08CF009381AMB	Procuring Person Under 18 for Prostitution	1	No	2 FEL

PSI: Waived/Not Required X Required/Requested _____

ADJUDICATION: Adjudicate [x]

SENTENCE:

On 06CF009454AMB, the Defendant is sentenced to 12 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served.

On 08CF009381AMB, the Defendant is sentenced to 18 months Community Control 1 (one). As a special condition of this Community Control, the Defendant must serve the first 6 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. This sentence is to be served consecutive to the 12 month sentence in 06CF009454AMB. The conditions of community control are attached hereto and incorporated herein.

OTHER COMMENTS OR CONDITIONS:

Court Costs: \$474.00 Cost of Prosecution: \$50.00 Drug Trust Fund: \$50.00

As a special condition of his community control, the Defendant is to have no unsupervised contact with minors, and the supervising adult must be approved by the Department of Corrections.

The Defendant is designated as a Sexual Offender pursuant to Florida Statute 943.0435 and must abide by all the corresponding requirements of the statute, a copy of which is attached hereto and incorporated herein.

The Defendant must provide a DNA sample in court at the time of this plea.

Assistant State Attorney

Attorney for the Defendant

Date of Plea

Defendant

948.101 Terms and conditions of community control and criminal quarantine community control.--

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include but is not limited to:

1. Specified contact with the parole and probation officer.
2. Confinement to an agreed-upon residence during hours away from employment and public service activities.
3. Mandatory public service.
4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.
5. The standard conditions of probation set forth in s. 948.03.

(b) For an offender placed on criminal quarantine community control, the court shall require:

1. Electronic monitoring 24 hours per day.
2. Confinement to a designated residence during designated hours.

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 304 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.

1943.0435 Sexual offenders required to register with the department; penalty.--

(1) As used in this section, the term:

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a. (i) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.08; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(ii) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (i). For purposes of sub-sub-subparagraph (i), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, or a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(i) Section 794.011, excluding s. 794.011(10);

(ii) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(iii) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.607.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or

control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile

Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclad genital or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to re-register.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);
 3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
 4. Section 800.04(5)(b);
 5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;
 6. Section 800.04(5)(c)2. where the court finds molestation involving unclothed genitals or genital area;
 7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;
 8. Any attempt or conspiracy to commit such offense; or
 9. A violation of a similar law of another jurisdiction,
- must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.
2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.
3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.
4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or

instant message names, commits a felony of the third degree, punishable as provided in s. 779.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

948.30 Additional terms and conditions of probation or community control for certain sex offenses.--Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

(c) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a qualified practitioner is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the court must review and consider the following:

1. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

- a. The sex offender's current legal status;
- b. The sex offender's history of adult charges with apparent sexual motivation;
- c. The sex offender's history of adult charges without apparent sexual motivation;

- d. The sex offender's history of juvenile charges, whenever available;
- e. The sex offender's offender treatment history, including consultations with the sex offender's treating, or most recent treating, therapist;
- f. The sex offender's current mental status;
- g. The sex offender's mental health and substance abuse treatment history as provided by the Department of Corrections;
- h. The sex offender's personal, social, educational, and work history;
- i. The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;
- j. A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;
- k. The child's preference and relative comfort level with the proposed contact, when age appropriate;
- l. The parent's or legal guardian's preference regarding the proposed contact; and
- m. The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.

The written report of the assessment must be given to the court;

2. A recommendation made as a part of the risk assessment report as to whether supervised contact with the child should be approved;
3. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The court may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;
4. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the court; and
5. Evidence that the child's parent or legal guardian understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The court may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the court that he or she has met the requirements of a qualified practitioner as defined in this section.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to, schools, day care centers, parks, playgrounds, pet stores, libraries, zoos, theme parks, and malls.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) Effective for probationers and community controllees whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

(i) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(j) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

(k) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on community control or sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any other provision of this section, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

(3) Effective for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who:

(a) Is placed on probation or community control for a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older;

(b) Is designated a sexual predator pursuant to s. 775.21; or

(c) Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older,

the court must order, in addition to any other provision of this section, mandatory electronic monitoring as a condition of the probation or community control supervision.

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO. 2008CF009381A

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.

FILED
CLERK OF DISTRICT COURT
PALM BEACH COUNTY
FLORIDA
DEC -4 PM 4:29

MOTION TO CLARIFY SENTENCE TO CORRECT SCRIVENER'S ERROR

COMES NOW the Defendant, JEFFREY EPSTEIN, by and through his undersigned attorney and moves this Honorable Court to enter an Order clarifying the sentence to correct a scrivener's error contained in the sentencing documents in the Defendant's case. In support thereof the Defendant would state as follows:

1. The Defendant was charged by Information in the above referenced case and the case was assigned to Criminal Division "W".
2. The case was resolved by a guilty plea after plea negotiations between the parties. It was a condition of the plea negotiations that the case be resolved on June 30, 2008.
3. The case was scheduled for a plea conference on June 30, 2008 in Criminal Division "W", the division that this case and the companion case had always been assigned to. On that date, retired Judge Deborah Pucillo was substituting for the assigned Division "W" judge, Sandra McSorley, because Judge McSorley would not be sitting on that day.
4. Judge Pucillo handled all cases assigned to Division "W" on June 30, 2008 including that of the Defendant.

SCANNED

DEC 08 2008

5. The Defendant, Jeffrey Epstein, entered his guilty pleas on June 30, 2008 in Division "W" before Judge Pucillo. All plea documents and court commitments from court on June 30, 2008 reflect that this was a Division "W" case and was being resolved in Division "W", the division the case had always been assigned to.

6. As part of the negotiated settlement of the case, the Defendant was sentenced to a twelve month sentence in Case No. 2006CF009454AXX, followed by a six month sentence on this case, consecutive with the first twelve month sentence in the in Case No. 2006CF009454AXX. The Defendant is sentenced to twelve months of community control I consecutive to the two above referenced jail sentences. The community control sentence begins only after the two jail sentences have been served.

7. On July 18, 2008 Judge Sandra McSorley, the permanent judge assigned to Division "W", signed an Order of Community Control, without notice to the parties, nunc pro tunc to June 30, 2008. The reason for this is that the substitute judge had neglected to sign an Order of Community Control in this case at the time of the plea. See the Order of Community Control attached as Exhibit "A".

8. The Order of Community Control signed by Division "W" Judge McSorley on July 18, 2008, contains a minor scrivener's error that needs to be corrected. The Order of Community Control could be misinterpreted to suggest that the Defendant was placed on community control on June 30, 2008 based on the box that the clerk checked in error when preparing the Order of Community Control.

9. The parties agree that the Defendant's twelve month sentence on Case No. 2006CF009454AXX is followed by a six month sentence in the instant case. The parties agree that the one year period of community control is to only begin after the Defendant

has completed his jail sentences.

10 Assistant State Attorney Lanna Belohlavek does not to object to Motion to Clarify Sentence to Correct Scrivener's Error.

WHEREFORE the Defendant moves this Honorable Court to enter an Order correcting the scrivener's error in the original Order of Community Control clarifying the intent to the parties that the Defendant's community control sentence begins only after his jail sentence terminates.

I HEREBY CERTIFY that a copy of the foregoing has been furnished by mail to Lanna Belohlavek, State Attorney's Office, 401 North Dixie Highway, West Palm Beach, Florida 33401, this 4th day of December, 2008.

ATTERBURY, GOLDBERGER & WEISS, P.A.





JACK A. GOLDBERGER, ESQ.





STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 5 DAY OF Aug, 2009
SHARON, R. BOCK
CLERK & COMPTROLLER

By _____
DEPUTY CLERK

STATE OF FLORIDA
Plaintiff

IN THE FIFTEENTH JUDICIAL
CIRCUIT COURT, IN AND FOR
PALM BEACH COUNTY

-VS-

JEFFREY E. EPSTEIN
Defendant

CASE NUMBER 502008CF009381AXXXMB
DIVISION MCSORLEY "W"
DC NUMBER W35755
CIRCUIT NUMBER: 15-4/JAIL SPLIT

ORDER OF COMMUNITY CONTROL I

This cause coming before the Court to be heard, and you, the defendant, being now present before the court, and you having

- entered a plea of guilty to
- entered a plea of nolo contendere to
- been found guilty by jury verdict of
- been found guilty by the court trying the case without a jury of

Count 1: PROCURE PERSON UNDER AGE OF 18 FOR PROSTITUTION

SECTION 1: JUDGMENT OF GUILT

- The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on Probation I for a period of ____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: ORDER WITHHOLDING ADJUDICATION

- Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on Probation for a period of ____ under the supervision of the Department of Corrections, subject to Florida law.

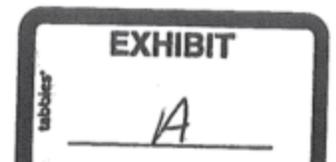
SECTION 3: INCARCERATION DURING PORTION OF SUPERVISION SENTENCE

It is hereby ordered and adjudged that you be:

- committed to the Department of Corrections
or
- confined in the County Jail
for a term of ____ with credit for ____ jail time. After you have served ____ of the term, you shall be placed on Probation for a period of ____ under the supervision of the Department of Corrections, subject to Florida law.
or
- confined in the County Jail
for a term of SIX (6) MONTHS AS TO COUNT 1 FOLLOWED BY TWELVE (12) MONTHS COMMUNITY CONTROL I CONSECUTIVE TO THE (12) MONTH SENTENCE IN CASE# 2008CF00945AAMB with credit for ONE (1) DAY jail time, as a special condition of supervision.

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL
2008 JUL 21 PM 4:55

FILED



JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

IT IS FURTHER ORDERED that you shall comply with the following standard conditions of supervision as provided by Florida law:

- (1) You will report to the probation office as directed. Not later than the fifth day of each month, unless otherwise directed, you will make a full and truthful report to your officer on the form provided for that purpose.
- (2) You will pay the State of Florida the amount of \$50.00 per month, as well as 4% surcharge, toward the cost of your supervision in accordance with s. 948.09, F.S., unless otherwise exempted in compliance with Florida Statutes.
- (3) You will remain in a specified place. You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.
- (4) You will not possess, carry or own any firearm or weapon, unless authorized by the court.
- (5) You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your probation/community control.
- (6) You will not associate with any person engaged in any criminal activity.
- (7) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs or other dangerous substances are unlawfully sold, dispensed or used.
- (8) You will work diligently at a lawful occupation, advise your employer of your probation status, and support any dependents to the best of your ability, as directed by your officer.
- (9) You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.
- (10) You will pay restitution, court costs, and/or fees in accordance with special conditions imposed or in accordance with the attached orders.
- (11) You will submit to random testing as directed by your officer or the professional staff of the treatment center where he/she is receiving treatment to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.
- (12) You will submit two biological specimens, as directed by your officer, for DNA analysis as prescribed in ss. 943.325 and 948.014, F.S.
- (13) You will report in person within 72 hours of your release from incarceration to the probation office in PALM BEACH County, Florida, unless otherwise instructed by the court or department. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at 3444 SOUTH CONGRESS AVENUE, LAKE WORTH, FL 33461.

JEFFREY EPSTEIN
CASE#502008CF009381AXX00MB

SPECIAL CONDITIONS

1. You must undergo a Drug and Alcohol evaluation and, if treatment is deemed necessary, you must successfully complete the treatment, and be responsible for the payment of any costs incurred while receiving said evaluation and treatment, unless waived by the court.
Additional instructions ordered: _____

2. You will make restitution to the following victim(s), as directed by the court, until the obligation is paid in full:
NAME: _____
TOTAL AMOUNT: \$ _____
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: _____

NAME: _____
TOTAL AMOUNT: \$ _____
Additional instructions ordered, including specific monthly amount, begin date, due date, or joint & several: _____

SPECIAL CONDITIONS - CONTINUED

3. You will enter the Department of Corrections Non-Secure Drug Treatment Program or other residential treatment program/Probation and Restitution Center for a period of successful completion as approved by your officer. You are to remain until you successfully complete said Program and Aftercare. You are to comply with all Rules and Regulations of the Program. You shall be confined in the county jail until placement in said program, and if you are confined in the jail, the Sheriff will transport you to said program.

4. You will abstain entirely from the use of alcohol and/or illegal drugs, and you will not associate with anyone who is illegally using drugs or consuming alcohol.

5. You will submit to urinalysis testing on a monthly basis to determine the presence of alcohol or illegal drugs. You will be required to pay for the tests unless exempt by the court.

6. You will not visit any establishment where the primary business is the sale and dispensing of alcoholic beverages.

7. You will successfully complete _____ hours of community service at a rate of _____, at a work site approved by your officer.
Additional instructions ordered: _____

8. You will remain at your residence between 10 p.m. and 6 a.m. due to a curfew imposed, unless otherwise directed by the court.

9. You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ _____ per month for the cost of the monitoring service, unless otherwise directed by the court.

10. You will not associate with _____ during the period of supervision.

11. You will have no contact (direct or indirect) with the victim or the victim's family during the period of supervision.

12. You will have no contact (direct or indirect) with _____ during the period of supervision.

13. You will maintain full time employment or attend school/vocational school full time or a combination of school/work during the term of your supervision.

14. You will make a good faith effort toward completing basic or functional literacy skills or a high school equivalency diploma.

15. You will successfully complete the Probation & Restitution Program, abiding by all rules and regulations.

JEFFREY EPSTEIN
CASE#502008CF009381AXXMB

- 16. You will attend Alcoholics Anonymous or Narcotics Anonymous meetings at least monthly, unless otherwise directed by the court.
- 17. You must successfully complete Anger Management, and be responsible for the payment of any costs incurred while receiving said treatment, unless waived. If convicted of a Domestic Violence offense, as defined in s. 741.28, F.S., you must attend and successfully complete a batterer's intervention program, unless otherwise directed by the court.
Additional instructions ordered: _____
- 18. You will attend an HIV/AIDS Awareness Program consisting of a class of not less than two (2) hours or more than four (4) hours in length, the cost for which will be paid by you.
- 19. You shall submit your person, property, place of residence, vehicle or personal effects to a warrantless search at any time, by any probation or community control officer or any law enforcement officer.
- 20. DEFENDANT MUST REGISTER AS A SEXUAL OFFENDER WITHIN 48 HOURS OF RELEASE
- 21. AS A SPECIAL CONDITION OF HIS COMMUNITY CONTROL, THE DEFENDANT IS TO HAVE NO UNSUPERVISED CONTACT WITH MINORS, AND THE SUPERVISING ADULT MUST BE APPROVED BY THE DEPARTMENT OF CORRECTIONS
- 22. THE DEFENDANT IS DESIGNATED AS A SEXUAL OFFENDER PURSUANT TO FLORIDA STATUTE 943.05 AND MUST ABIDE BY ALL THE CORRESPONDING REQUIREMENTS OF THE STATUTE, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN
- 23. DEFENDANT MUST PROVIDE A DNA SAMPLE IN COURT AT THE TIME OF THIS PLEA.
- 24. SPECIFIED CONTACT WITH THE PAROLE AND PROBATION OFFICER
- 25. CONFINEMENT TO AN AGREED-UPON RESIDENCE DURING HOURS AWAY FROM EMPLOYMENT AND PUBLIC SERVICE ACTIVITIES
- 25. MANDATORY PUBLIC SERVICE
- 26. SUPERVISION BY THE DEPARTMENT OF CORRECTIONS BY MEANS OF AN ELECTRONIC MONITORING DEVICE OR SYSTEM
- 27. ELECTRONIC MONITORING 24 HOURS PER DAY
- 28. CONFINEMENT TO A DESIGNATED RESIDENCE DURING DESIGNATED HOURS

AND, IF PLACED ON DRUG OFFENDER PROBATION, YOU WILL COMPLY WITH THE FOLLOWING CONDITION OF SUPERVISION IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

(14) You will participate in a specialized drug treatment program, either as an in-patient or out patient, as recommended by the treatment provider. You will attend all counseling sessions, submit to random urinalysis and, if an in-patient, you will comply with all operating rules, regulations and procedures of the treatment facility. You will pay for all costs associated with treatment and testing unless otherwise directed.
Additional instructions ordered: _____

(15) You will remain at your residence between _____ p.m. and _____ a.m. due to a curfew imposed, unless otherwise directed by the court.

AND, IF PLACED ON COMMUNITY CONTROL, YOU WILL COMPLY WITH THE FOLLOWING CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

JEFFREY EPSTEIN
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- (14) You will report to your officer as directed, at least one time a week, unless you have written consent otherwise.
- (15) You will remain confined to your approved residence except for one half hour before and after your approved employment, public service work, or any other special activities approved by your officer.
- (16) You will maintain an hourly accounting of all your activities on a daily log, which you will submit to your officer on request.
- (17) You will successfully complete ___ hours of community service at a rate of ___, at a work site approved by your officer.
Additional instructions ordered: _____
- (18) You will submit to electronic monitoring, follow the rules of electronic monitoring, and pay \$ _____ per month for the cost of the monitoring service, unless otherwise directed by the court.

AND, IF PLACED ON PROBATION OR COMMUNITY CONTROL FOR A SEX OFFENSE PROVIDED IN CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145, COMMITTED ON OR AFTER OCTOBER 1, 1995 YOU WILL COMPLY WITH THE FOLLOWING STANDARD SEX OFFENDER CONDITIONS, IN ADDITION TO THE STANDARD CONDITIONS LISTED ABOVE AND ANY OTHER SPECIAL CONDITIONS ORDERED BY THE COURT:

- (14) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.
- (15) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.
- (16) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the offender's own expense. If a qualified practitioner is not available within a 50-mile radius of the offender's residence, the offender shall participate in other appropriate therapy.
- (17) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.
- (18) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time.
- (19) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to any school, day care center, park, playground, pet store, library, zoo, theme park, or mall.
- (20) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.
- (21) A requirement that the offender submit two specimens of blood or other approved biological specimens to the Florida Department of Law Enforcement to be registered with the DNA data bank.
- (22) A requirement that the offender make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.
- (23) Submission to a warrantless search by the community control or probation officer of the offender's person, residence, or vehicle.

JEFFREY EPSTEIN
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EFFECTIVE FOR PROBATIONER OR COMMUNITY CONTROLLED WHOSE CRIME WAS COMMITTED ON OR AFTER OCTOBER 1, 1997, AND WHO IS PLACED ON COMMUNITY CONTROL OR SEX OFFENDER PROBATION FOR A VIOLATION OF CHAPTER 794, s. 800.04, s. 827.071, or s. 847.0145, IN ADDITION TO ANY OTHER PROVISION OF THIS SECTION, YOU MUST COMPLY WITH THE FOLLOWING CONDITIONS OF SUPERVISION:

- (24) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid by the sex offender.
- (25) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.
- (26) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.
- (27) If there was sexual contact, a submission to, at the offender's expense, an HIV test with the results to be released to the victim and/or the victim's parent or guardian.
- (28) Electronic monitoring when deemed necessary by the probation officer and supervisor, and ordered by the court at the recommendation of the Department of Corrections.
- (29) Effective for an offender whose crime was committed on or after July 1, 2005, and who are placed on supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.
- (30) Effective for offenders whose crime was committed on or after September 1, 2005, there is hereby imposed, in addition to any other provision in this section, mandatory electronic monitoring as a condition of supervision for those who:
- Are placed on supervision for a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older; or
 - Are designated as a sexual predator pursuant to s. 775.21; or
 - Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.

You are hereby placed on notice that should you violate your probation or community control, and the conditions set forth in s. 948.063(1) or (2) are satisfied, whether your probation or community control is revoked or not revoked, you shall be placed on electronic monitoring in accordance with F.S. 948.063.

YOU ARE HEREBY PLACED ON NOTICE that the court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication of guilt was withheld, and impose any sentence that it might have imposed before placing you on probation or require you to serve the balance of the sentence.

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

IT IS FURTHER ORDERED that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. (This paragraph applies only if section 1 or section 2 is checked.)

IT IS FURTHER ORDERED that the clerk of this court file this order in the clerk's office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, on

July 18, 2008

NUNC PRO TUNC 06-30-2008

Sandra K. McSorley
Sandra K. McSorley, Circuit Judge

I acknowledge receipt of a copy of this order and that the conditions have been explained to me and I agree to abide by them.

Date: _____

Defendant _____

Instructed by: _____
Supervising Officer

ep/07-02-08

JEFFREY EPSTEIN
CASE#502008CF009381AXXXMB

COURT ORDERED PAYMENTS

CHECK ALL THAT ARE ORDERED:

FINES

- \$ _____ Total of fines assessed in sentence, pursuant to s. 775.083 (1)(a) through (g) or Chapter 316, F.S.
- \$ _____ Statutorily mandated 5% surcharge/cost if fine assessed (on first line) pursuant to s. 938.04, F.S.
- \$ 20.00 Crime Stoppers Trust Fund pursuant to s. 938.06(1), F.S. Statutorily mandated if a fine is imposed

MANDATORY COSTS IN ALL CASES

- \$ 200.00 Additional court cost for felony offense, pursuant to s. 938.05(1)(a), F.S.
- \$ 50.00 Additional court cost for misdemeanor or criminal traffic offense, pursuant to s. 938.05(1)(b) or (c), F.S.
- \$ 50.00 Crimes Compensation Trust Fund pursuant to s. 938.03(1), F.S.
- \$ 50.00 County Crime Prevention Fund pursuant to s. 775.083(2), F.S.
- \$ 3.00 Additional Court Costs Clearing Trust Fund pursuant to s. 938.01(1), F.S.
- \$ 2.00 Per month for each month of supervision for Training Trust Fund Surcharge, pursuant to s. 948.09, F.S.

MANDATORY COSTS IN SPECIFIC TYPES OF CASES

- \$ 151.00 Rape Crisis Program Trust Fund, pursuant to s. 938.085, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, or 794.011, F.S.
- \$ 201.00 Domestic Violence Trust Fund, pursuant to s. 938.08, F.S. for any violations of ss. 784.011, 784.021, 784.03, 784.041, 784.045, 784.048, 784.07, 784.08, 784.081, 784.082, 784.083, 784.085, 794.011, or any offense of Domestic Violence described in s. 741.28, F.S.
- \$ 101.00 Certain Crimes Against Minors, pursuant to s. 938.10(1), F.S. for any violations of s. 784.085, chapter 787, chapter 794, s. 796.03, s. 800.04, chapter 827, s. 847.0145, or s. 985.701, F.S.
- \$ 135.00 DUI Court Costs, pursuant to s. 938.07, F.S. for any violations of ss. 316.193 or 327.35, F.S.
- \$ 3.00 State Agency Law Enforcement Radio System Trust Fund, pursuant to s. 318.18(17), F.S. for any violations of offenses listed in s. 318.17 including ss. 316.1935, 316.027, 316.061, 877.111, chapter 893, ss. 316.193, 316.192, 316.067, 316.072(3), 316.545(1), or any other offense in chapter 316 which is classified as a criminal violation.

MANDATORY COURT COSTS AUTHORIZED BY LOCAL GOVERNMENTAL ENTITIES

- \$ 2.00 Criminal Justice Education by Municipalities and Counties, pursuant to s. 938.15, F.S.
- \$ 65.00 Additional court costs for local requirements and other county funded programs pursuant to s. 939.185(1)(a), F.S.
- \$ 3.00 Teen Court pursuant to s. 938.19(2), F.S.

DISCRETIONARY

- \$ 1.00 Per month during the term of supervision to the following nonprofit organization established for the sole purpose of supplementing the rehabilitative efforts of the Department of Corrections, pursuant to s. 948.039(2), F.S.:
- \$ 40.00 Public Defender Application Fee, if not previously collected or waived, pursuant to s. 27.52 and s. 938.29, F.S.
- \$ _____ Public Defender Fees and Costs, pursuant to s. 938.29, F.S. as determined locally.
- \$ 90.00 Prosecution/Investigative Costs, pursuant to s. 938.27, F.S.

Other: _____

Other: _____

DISCRETIONARY COSTS FOR SPECIFIC TYPES OF CASES

- \$ 80.00 County Alcohol and Other Drug Abuse Trust Fund, pursuant to s. 938.21 and s. 938.23, F.S. for violations of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or chapter 568, F.S.
- \$ 100.00 Operating Trust Fund of the FDLE, pursuant to s. 938.25, F.S. for violations of s. 893.13 offenses

* TOTAL \$ 473.00

PAYMENT IS TO BE MADE THROUGH AND PAYABLE TO: Department of Corrections or Clerk of Court

(If collected by the Department of Corrections, a surcharge of 4% will be added to all payments ordered by the court, pursuant to s. 945.31, F.S.)

- Court Costs/Fines Waived
- Court Costs/Fines in the amount of _____ converted to _____ community service hours
- Court Costs/Fines in the amount of _____ reduced to civil judgment.

SPECIFIC INSTRUCTIONS FOR PAYMENT: _____

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: 08CF009381AXXXMB

DIVISION "W"

vs.
JEFFREY E. EPSTEIN,

Defendant.

09 MAY -4 PM 3:52
MAY 05 2009
PALM BEACH COUNTY, FLORIDA
CIRCUIT CLERK

AGREED ORDER CORRECTING SCRIVENER'S ERROR

THIS MATTER came before the Court upon the agreement of Jack A. Goldberger, Esq., attorney for the Defendant, and Barbara Burns, Esq., Assistant State Attorney, and the Court being otherwise fully apprised of the facts and circumstances therein, it is hereby

ORDERED AND ADJUDGED that the Order of Community Control is corrected to delete special condition #26 (Supervision by DOC by means of an electronic monitoring device or system) and special condition #27 (Electronic monitoring 24 hours per day). The plea agreement and plea colloquy clearly reflect that the Defendant was not to be placed on the electronic monitor.

DONE AND ORDERED in chambers, West Palm Beach, Palm Beach County, Florida this 4 day of May, 2009.



JEFFREY COLBATH
Circuit Court Judge

Copies Furnished:

Jack A. Goldberger, Esq., Attorney for Defendant
Barbara Burns, Esq., Assistant State Attorney
Department of Corrections – Probation and Parole

SCANNED MAY 05 2009



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 5 DAY OF Aug, 2009

SHARON R. BOCK
CLERK & COMPTROLLER

By _____
DEPUTY CLERK



FAXED
5/4/09

PLEA IN THE CIRCUIT COURT
THE FOLLOWING IS TO REFLECT ALL TERMS OF THE NEGOTIATED SETTLEMENT

Name: Jeffrey E. Epstein

Plea: Guilty X

Case No.	Charge	Count	Lesser	Degree
08CF009454AMB	Felony Solicitation of Prostitution	1	No	3 FEL
<u>20</u> 08CF009381AMB	Procuring Person Under 18 for Prostitution	1	No	2 FEL

PSI: Waived/Not Required X Required/Requested _____

ADJUDICATION: Adjudicate [x]

SENTENCE:

On 08CF009454AMB, the Defendant is sentenced to 12 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served.

On 08CF009381AMB, the Defendant is sentenced to 6 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. This 6 month sentence is to be served consecutive to the 12 month sentence in 08CF009454AMB. Following this 6 month sentence, the Defendant will be placed on 12 months Community Control 1 (one). The conditions of community control are attached hereto and incorporated herein.

OTHER COMMENTS OR CONDITIONS:

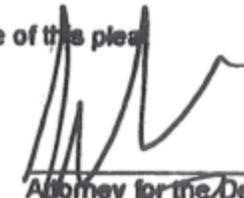
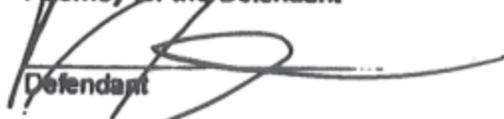
As a special condition of his community control, the Defendant is to have no unsupervised contact with minors, and the supervising adult must be approved by the Department of Corrections.

The Defendant is designated as a Sexual Offender pursuant to Florida Statute 943.0435 and must abide by all the corresponding requirements of the statute, a copy of which is attached hereto and incorporated herein.

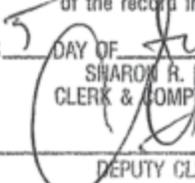
The Defendant must provide a DNA sample in court at the time of this plea.


 Assistant State Attorney

6/30/08
 Date of Plea


 Attorney for the Defendant

 Defendant



STATE OF FLORIDA • PALM BEACH COUNTY
 I hereby certify that the foregoing is a true copy of the record in my office.
 THIS 5 DAY OF July, 2007
 SARAH R. BOCK
 CLERK & COMPTROLLER
 By 
 DEPUTY CLERK

FURTHER ORDERED THAT YOU SHALL COMPLY WITH THE FOLLOWING CONDITIONS OF SUPERVISION:

I. COMMUNITY CONTROL BOARD CONDITIONS:

- (a) You will remain confined to your residence except one half hour before and after your approved employment, community service work, or any other activities approved by your probation officer.
- (b) You will maintain an hourly accounting of all your activities on a daily log which you will submit to your supervising officer upon request.
- (c) The Department of Corrections, may at its discretion, places you on Electronic Monitoring during the term of your Community Control. If placed on Electronic Monitoring, you will wear a monitor at all times. You will maintain a private phone line, be financially responsible for any lost or damaged equipment and follow all rules and regulations as instructed. The telephone will be available within five working days of being placed on Electronic Monitoring Program. While on electronic monitoring you will remain confined to your residence and are prohibited from being outside the residential walls.
- (d) If while being monitored and the monitor is found to have been tampered with you shall be taken into custody immediately, if the officer determines that your were not at your schedules place of work or school while allowed to be outside the residence then in that event you shall be taken into custody immediately. If taken into custody, you shall be held without bond and shall, on the next working day, brought before a Judge presiding over his or her case for further disposition at the discretion of the presiding Judge.
- (e) If placed on Electronic Monitoring you will pay to the State of Florida, for the cost of Electronic Monitoring \$1.00 per day, per F.S. 948.09.

(f) Defendant will be residing at 358 El Brillo Way, Palm Beach, Florida, 33480

II. DRUG OFFENDER PROBATION STANDARD CONDITIONS

- (a) You will submit to and, unless otherwise waived, be financially responsible for drug testing, urinalysis at least on a monthly basis, and counseling if deemed appropriate by your supervising officer.
- (b) You will enter and successfully complete a non-secure or inpatient drug treatment program if deemed appropriate by your officer.
- (c) You will comply with any curfew restrictions, confinement approved residence or travel restrictions as instructed by your officer and approved by the Officer's Supervisor.

III. SEX OFFENDER STANDARD CONDITIONS:

- (a) you shall submit to a mandatory curfew from 10:00 PM to 6:00 AM
- (b) (if the victim was under the age of 18 years) you shall not live within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate.
- (c) you shall enter, actively participate in, and successfully complete a sex offender treatment program with a therapist particularly trained to treat sex offender, at probationer's or community control's expense.
- (d) you shall not have any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the therapist and sentencing court.
- (e) (if the victim was under the age of 18 years) you shall not, until you successfully attend and complete the sex offender program, have any unsupervised contact with a child under the age of 18 years, unless authorized by the sentencing court, without an adult present who is responsible for the child's welfare and which adult has been advised of the crime and is approved by the sentencing court.
- (f) (if the victim was under the age of 18 years) you shall not work for pay or as a volunteer in any school, day care center, park, playground, or other place where children regularly congregate.
- (g) ~~Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program,~~ you shall not view, own, or possess any obscene, pornographic or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs or computer services that are relevant to your deviant behavior pattern.
- (h) You shall submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA Data Bank.
- (i) You shall make restitution to the victim as ordered by this court pursuant to F.S. 775.089 for all necessary medical and related professional services relating to the physical, psychiatric and psychological care of the victim.
- (j) You shall submit to a warrantless search by your probation officer or community control officer of your person, residence, or vehicle.

Handwritten notes and scribbles on the left margin, including a large vertical line and some illegible markings.

(g) Defendant to have contact with his ~~probation~~ ^{community control} officer at a minimum one time a week.

(h) Defendant to work @ Florida Science Foundation, 250 Australian Ave. NIPA FL.

OFFENDER PROBATION/COMMUNITY CONTROL STANDARD CONDITIONS:

- (b) you shall submit to a mandatory curfew from 10:00 PM to 6:00 AM (if the victim was under the age of 18 years) you shall not live within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate.
- (c) you shall enter, actively participate in, and successfully complete a sex offender treatment program with a therapist particularly trained to treat sex offender, at probationer's or community controlees expense.
- (d) you shall not have any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the therapist and sentencing court.
- (e) (if the victim was under the age of 18 years) you shall not, until you successfully attend and complete the sex offender program, have any unsupervised contact with a child under the age of 18 years, unless authorized by the sentencing court, without an adult present who is responsible for the child's welfare and which adult has been advised of the crime and is approved by the sentencing court.
- (f) (if the victim was under the age of 18 years) you shall not work for pay or as a volunteer in any school, day care center, park, playground, or other place where children regularly congregate.
- (g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, you shall not view, own, or possess any obscene, pornographic or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs or computer services that are relevant to your deviant behavior pattern.
- (h) You shall submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA Data Bank.
- (i) You shall make restitution to the victim as ordered by this court pursuant to F.S. 775.089 for all necessary medical and related professional services relating to the physical, psychiatric and psychological care of the victim.
- (j) You shall submit to a warrantless search by your probation officer or community control officer of your person, residence, or vehicle.
- (k) you shall, as part of a treatment program, participate once/twice annually in polygraph examination to obtain information necessary for risk management and treatment and to reduce your denial mechanisms. Your polygraph examinations must be conducted by a polygrapher trained specifically in the use of polygraph for monitoring sex offenders and it shall be paid by you. The results of the polygraph examinations shall not be used as evidenced in court to prove that a violation of community supervision occurred.
- (1) You shall maintain a driving log, you shall not drive a motor vehicle while alone without prior approval of your supervising officer.
- (m) (if there was sexual contact) you shall submit to, at probationer's or community controlee's expense, an HIV test with the results to be released to the victim, or the victim's parents or guardian.
- (n) You will not obtain or use a Post Office Box without the prior approval of the supervising officer.
- (o) You will submit to electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

(duplicate)

Other: _____

THE COURT RESERVES THE RIGHT TO RESCIND, MODIFY, OR REVOKE SUPERVISION TO THE EXTENT PROVIDED BY LAW AND ORDERED AT West Palm Beach, Palm Beach County, Florida, this 30 day of June 2005.

Honorable Sandra K. McSorley
Judge, Circuit Court

I have received a copy of the terms and conditions of my supervision. I have read and understand these conditions and agree to report to the Department of Corrections Probation Office for further instructions. Also, I hereby consent to the disclosure of my alcohol and drug abuse patient records, the confidentiality of which is federally regulated under 42CFR, Part II, for the duration of my supervision.

DEFENDANT

J.P. 10/11/2005

DATE



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that INSTRUCTED BY foregoing is a true copy of the record in my office.

THIS 5 DAY OF July 2007

SHARON R. BOCK
CLERK & CONTROLLER

By DEPUTY CLERK

948.101 Terms and conditions of community control and criminal quarantine community control.--

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include but is not limited to:

1. Specified contact with the parole and probation officer.
2. Confinement to an agreed-upon residence during hours away from employment and public service activities.
3. Mandatory public service.
4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.
5. The standard conditions of probation set forth in s. 948.03.

(b) For an offender placed on criminal quarantine community control, the court shall require:

1. Electronic monitoring 24 hours per day.
2. Confinement to a designated residence during designated hours.

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.



'943.0435 Sexual offenders required to register with the department; penalty..

(1) As used in this section, the term:

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a. (I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or

control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.



(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.



(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile



Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(1) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;



2. Section 794.011, excluding s. 794.011(10);
3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
4. Section 800.04(5)(b);
5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;
6. Section 800.04(5)c.2. where the court finds molestation involving unclothed genitals or genital area;
7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;
8. Any attempt or conspiracy to commit such offense; or
9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.
2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.
3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.
4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or



instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner proscribed by the department.



STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 5 DAY OF Aug, 2009

SHARON R. BOCK
CLERK & COMPTROLLER

By _____
DEPUTY CLERK

STATE MOTN UNSEAL NFA

The Palm Beach Post

ALEX TAYLOR, *Publisher*

TIM BURKE, *Executive Editor* RANDY SCHULTZ, *Editor of the Editorial Page*

Unseal the Epstein deal

A rich, middle-aged Palm Beacher who preyed on girls almost 40 years younger already has received too many breaks from the system. He doesn't deserve another.

In July 2008, at the age of 55 and after paying the equivalent of a small country's gross domestic product in legal fees, Jeffrey Epstein escaped federal charges and pleaded guilty in state court to a pair of charges related to his luring five girls — ages 14 to 17 — to his house. The girls undressed and massaged him in return for \$200 to \$300. He's serving only 18 months in the Palm Beach County Jail, and he's serving only nights. And now he wants just one more favor.



Epstein

When Epstein entered his state plea, the terms of his federal deal were sealed from the public. That violated normal procedures. Attorneys for some of the victims, who have filed civil lawsuits, want that plea deal unsealed, probably because the details would help their cases.

But given the nature of this case, there's also a public interest. One condition of the federal plea, for example, was that he take the state deal. That's why *The Post* also is seeking to have the file unsealed. Epstein's lawyers,

Palm Beach sex offender deserves no more breaks.

of course, want it kept secret. Last week, a Palm Beach County judge set a hearing for June 25.

Epstein attorney Jack Goldberger claims that the file should stay sealed to protect the "orderly administration of justice" and "protect a compelling government interest." Oh, and third parties might get hurt. The compelling interest is Epstein's, and there is no privacy issue since the victims themselves are making the request.

Palm Beach police spent 11 months investigating Epstein, only to see then-State Attorney Barry Krischer kick the case to a grand jury. Mr. Krischer backed off when one of Epstein's gold-plated attorneys, Alan Dershowitz, announced that some of the victims had posted MySpace comments about their alcohol and marijuana use.

Epstein's "best" defense has been that he didn't know the girls were underage. "How he verified that," Mr. Goldberger said, "I don't know." Investigators found a high school transcript in Epstein's house. He didn't know? The public should know what Jeffrey Epstein did, and what the system did for him.

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO. 2008CF009381A
DIVISION W

STATE OF FLORIDA

vs.

JEFFREY EPSTEIN,

Defendant.
_____ /

MOTION TO MAKE COURT RECORDS CONFIDENTIAL

Comes now the Defendant, JEFFREY EPSTEIN, by and through his undersigned attorney's, pursuant to Florida Rule of Judicial Administration 2.420 and the Administrative Orders of this Court , specifically AO 2.303 and moves this Court to treat as confidential the following records.

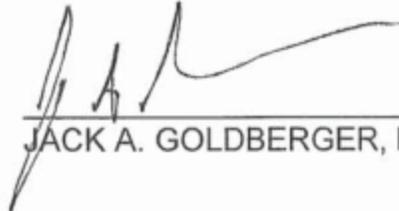
- A. A document referred to as "Non-Prosecution Agreement" filed under seal in the court file on July 2, 2008.
- B. A document referred to as "The Addendum to the Non-Prosecution Agreement" filed under seal in the court file on August 25, 2008.
1. The above referenced documents were Ordered Sealed at a hearing held before the Honorable Judge Deborah Dale Pucillo on June 30, 2008.
2. A Motion to Vacate Order Sealing Records and Unseal Records was filed by Non-Party EW on or about May 15, 2009.
3. A Motion to Intervene and Petition for Access was filed by Non-party Palm Beach Post on June 1, 2009.
4. This Court granted Non-Party E.W. and Palm Beach Post Motion to Intervene on June 10, 2009 but took no immediate action on E. W.'s Motion to Vacate Order Sealing Records and Unsealing Records or on Palm Beach Posts Petition For Access, pending a further hearing.

5.. The documents should remain confidential for the following reasons:

- a. To prevent a serious imminent threat to the fair, impartial, and orderly administration of justice.
- b. To protect a compelling government interest.
- c. To avoid substantial injury to innocent third parties.
- d. To avoid substantial injury to a party by disclosure of matters protected by a common law and privacy right, not generally inherent in these specific type of proceedings, sought to be closed.

WHEREFORE, Defendant moves this Honorable Court to enter an Order keeping the above referenced records confidential, and maintaining them under seal.

I HEREBY CERTIFY that this motion is made in good faith and supported by a sound and factual legal basis.



JACK A. GOLDBERGER, ESQ.

WITNESS my hand and seal in the County and State last aforesaid this 11 day of June, 2009.





Notary Public State of Florida
My Commission Expires

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail; Facsimile; Overnight Delivery to R. Alexander Acosta, United States Attorney's Office-Southern District, 500 S. Australian Ave., Suite 400, West Palm Beach, FL 33401, Judith Stevenson Areo, Esq., State Attorney's Office-West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401, William J Berger, Esq., ROTHSTEIN ROSENFELDT ADLER, [REDACTED]

[REDACTED] Bradley J. Edwards, Esq., ROTHSTEIN ROSENFELDT ADLER, [REDACTED] Deanna K. Shullman, [REDACTED] Robert D. Critton, BURMAN, CRITTON, LUTTIER, & COLEMAN, [REDACTED]

[REDACTED] this 11 day of June, 2009.

BURMAN, CRITTON, LUTTIER & COLEMAN [REDACTED] ATTERBURY, GOLDBERGER & WEISS, P.A. [REDACTED]
250 Australian Avenue South



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JASON S. WEISS

Board Certified Criminal Trial Attorney

Member of New Jersey & Florida Bars

June 11, 2009

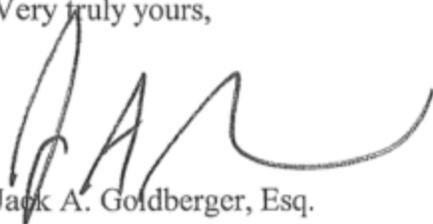
Honorable Jeffrey Colbath
Palm Beach County Courthouse
205 North Dixie Highway
West Palm Beach, Florida 33401

RE: State of Florida v. Jeffrey Epstein
Case No. 2008 CF009381A

Dear Judge Colbath,

Enclosed please find a courtesy copy of Jeffrey Epstein's Motion to Make Court Records Confidential filed with the Clerk of the Court on June 11, 2009.

Very truly yours,



Jack A. Goldberg, Esq.

JAG/cg

Enc.

cc: Alexander Acosta, U.S. Attorney
Judith Stevenson Arco, State Attorney
William Berger, Esq.
Bradley Edwards, Esq.
Deanna Shullman, Esq.
Robert Critton, Esq.



AWW ATTERBURY GOLDBERGER & WEISS, P.A.



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Judge delays ruling on request to unseal plea deal in sex case

By SUSAN SPENCER-WENDEL
Palm Beach Post Staff Writer

WEST PALM BEACH — A circuit judge on Wednesday did not unseal the deal that money manager Jeffrey Epstein of Palm Beach struck with federal prosecutors to avoid charges, opting instead to give Epstein's lawyers a chance to demonstrate why it should remain hidden from public view.



Circuit Judge Jeff Epstein Colbath ac-

knowledged at a hearing that Epstein's deal was not sealed in state court in accordance with the rules.

"I don't see where any of the procedures were ever followed," he said.

Colbath has given Epstein's defense attorney, Jack Goldberger, an opportunity to argue that the document was properly sealed and asked lawyers to submit briefs to him by Friday. Colbath also set a full hearing for June 25.

Attorneys for young

women now suing Epstein are asking Colbath to unseal the deal that Epstein brokered with federal prosecutors. A lawyer for *The Palm Beach Post* also has joined in the request.

"It's a secret agreement. A secret, sweetheart agreement," said former Circuit Judge Bill Berger, who now represents some of the women.

"Everybody was in on this deal except the victims and the public," Berger said. "The public should be outraged it has gone as far as it has."

A second attorney representing the women, Brad Edwards, has seen the sealed document. A federal judge allowed him and his clients to view it, but not to discuss its contents.

Edwards said the women were "outraged" at what had been negotiated without their knowledge. A reporter asked Edwards if he thought Epstein received special treatment by federal prosecutors.

"Are you kidding? It's transparent. Certainly no

one else gets treated like that," Edwards said.

Epstein, 56, a reported money manager of billionaires, is currently serving an 18-month sentence in the Palm Beach County Stockade after pleading guilty nearly a year ago in state court to felony solicitation of prostitution and procuring teenagers for prostitution.

The saga began years ago when the Palm Beach Police Department began investigating whether young women were being brought to Epstein's mansion on El Brillo Way to massage him and have sex with him in exchange for money.

Epstein's attorneys, in federal filings, have referred to sealed documents as a deferred prosecution agreement with federal prosecutors and have called it "unprecedented" and "highly unusual."

Goldberger said his client has not received any special treatment.

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Women want sex plea deal unsealed

*Their attorneys will ask a judge
to open Jeffrey Epstein's records.*

By SUSAN SPENCER-WENDEL
Palm Beach Post Staff Writer

WEST PALM BEACH — When wealthy money manager Jeffrey Epstein of Palm Beach pleaded guilty last year to procuring teens for prostitution, his case detoured around local and state rules regarding the sealing of court documents.

At a plea conference on the state charges, a judge, a defense lawyer and a prosecutor huddled at the bench and decided that a deal Epstein had struck with federal prosecutors to avoid charges should be sealed, according to a transcript of the hearing.

And so it was.

But Florida rules of judicial administration, as well as rules of the Palm Beach County court system, require public notification that a court document has been or will be sealed, meaning kept from public view. The rules also require a judge to find a significant reason to seal,



Epstein

See EPSTEIN, 4A ►

See past coverage of Jeffrey Epstein's sex scandals. PalmBeachPost.com/epstein

Public has right to know details of deal, Post attorney will claim

► EPSTEIN *from 1A*

such as protecting a trade secret or a compelling government interest.

Yet no notification or reason occurred in Epstein's case, according to court records.

Epstein's own attorneys, in federal filings, have referred to his confidential deferred prosecution agreement with the U.S. attorney's office, struck in September 2007, as "unprecedented" and "highly unusual." And it was "a significant inducement" for Epstein to accept the state's deal, observed the state judge who accepted his plea, County Judge Deborah Dale Pucillo.

Epstein now faces at least a dozen civil lawsuits in federal and state courts filed by young women who said they had sex with him and now are seeking damages.

Attorneys for some of those women want his agreement with federal prosecutors unsealed and will ask Circuit Judge Jeffrey Colbath to do so today.

"It is against public policy for these documents to be have been sealed and hidden from public scrutiny. As a member of the public, E.W. has a right to have these documents unsealed," wrote former Circuit Judge Bill Berger, now in private

practice and representing one of the women.

The Palm Beach Post also will ask Colbath to unseal the agreement. *Post* attorney Deanna Shullman will argue that the public has a right to know the specifics of Epstein's deal.

According to various media accounts, Epstein moved in circles that included President Clinton, Donald Trump and Prince Andrew. "International Moneyman of Mystery," declared a 2002 *New York* magazine profile of Epstein.

Epstein, 56, is in the Palm Beach County Stockade, serving an 18-month sentence after pleading guilty nearly a year ago to felony solicitation of prostitution and procuring teenagers for prostitution.

He is allowed out from 7 a.m. to 11 p.m., escorted by a deputy, said Palm Beach County Sheriff's Office spokeswoman Teri Barbera.

During a Palm Beach Police Department investigation, five victims and 17 witnesses gave statements. They told of young women brought by his assistants to Epstein's mansion on El Brillo Way for massages and sexual activity, and then being paid afterward.

At Epstein's plea conference last year, his attorney, Jack Goldberger, and then-Assistant State At-

torney Lanna Belohlavek approached Pucillo in a sidebar conference. Pucillo, who had left the bench nine years earlier, was filling in temporarily as a senior judge.

According to a transcript, Goldberger told Pucillo that Epstein had entered a confidential agreement with the U.S. attorney's office in which federal prosecutors brokered not pursuing charges against him if he pleaded guilty in state court. Pucillo then said she wanted a sealed copy of the agreement filed in his case, and Goldberger concurred that he wanted it sealed. Belohlavek later signed off on it.

The Florida Supreme Court has expressed "serious concern" and launched an all-out inquiry into sealing procedures across the state following media reports in 2006 of entire cases being sealed and disappearing from court records.

"The public's constitutional right of access to court records must remain inviolate, and this court is fully committed to safeguarding this right," justices wrote in their final report.

Epstein's office on Tuesday referred any questions to Goldberger, who declined to comment. Pucillo also has declined to comment.

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METRO REPORT

IN COURT

WEST PALM BEACH — An appellate court on Wednesday granted financier Jeffrey Epstein's request to block the unsealing of his non-prosecution agreement with the U.S. Attorney's Office while the court considers his appeal. A circuit judge had ordered the release of the documents, but Epstein's attorney argued that it would cause "irreparable harm." Attorneys for women now suing Epstein and for The Palm Beach Post sought the documents' release. The Fourth District Court of Appeal blocked the unsealing while both sides present legal arguments and the court considers them. Epstein pleaded guilty last year to solicitation of prostitution and procuring teenagers for prostitution.

EPSTEIN SEX PARTNER LOSES LAWSUIT AGAINST NEWSPAPER



Epstein

Pervy Palm Beach moneybags **Jeffrey Epstein**, who's at the tail-end of his 18-month sentence for solicitation of prostitution, is the talk of the legal world again. One of the young girls he invited up for strange sex when she was 16 lost her defamation lawsuit against *The New York Post* last week. **Ava Cordero** was asking for

\$100 million because, in 2007, the paper outed her as a transgender person (boy to girl) and, she claimed, made her look like "a promiscuous slut." The paper quoted her MySpace page as saying she fantasized about being with multiple partners. A New York appellate court sided with the tabloid, saying that Cordero herself gave the public the reasonable impression of promiscuity. Ya think?

Got a news tip? Call Jose at (561) 820-4725 or e-mail jose_lambiet@pbpost.com

4. JUDGES BELOW: List the name of all judges, deputy commissioners and hearing officers/examiners who were involved in this action below. Specify the judge who entered the order appealed.

Honorable Jeffrey J. Colbath (entered order appealed)

5. JURISDICTION: State the basis for this court's jurisdiction, including the following: (1) the appellate rule providing jurisdiction claimed 9.100(c)(1) and 9.140(b)(1)(D); (2) the date of filing in the lower tribunal of the order appealed June 25, 2009; (3) if this is an appeal from a final order, the date of the return of verdict in a jury action N/A; the service date of any Fla. R. Civ. P. 1.530 motion N/A, and the date of entry of the order deciding such motion N/A.

6. PENDING MATTERS IN LOWER TRIBUNAL: Are there any matters, including counts of claims or counterclaims, still pending in the lower tribunal? If yes, please explain exactly what remains pending.

Not in the criminal case. There are civil cases pending against Mr. Epstein.

7. CURRENT AND PRIOR PROCEEDINGS IN THIS COURT:

List by style and case number of this court, all cases which are or have been pending before this court involving issues arising from the same lower tribunal case and the current status of same:

None.

Criminal appeals: List by style and case number of this court all co-defendants currently or previously on appeal to this court.

None.

Similar Issues: List by style and case number of this court, all cases which are or have been pending before this court which are related to this action or which involve an issue which will be similar or determinative to the issue in this case on appeal.

E.W. Epstein, Case No. 4D09-2409.

If you become aware of appeals filed subsequent to the submission of this docketing statement involving a co-defendant in a criminal case, the same controversy or parties, or substantial similar issues, please file an amended response to this question.

8. Court Transcript:

Do you intend to order any portion of the transcript for the appeal? Yes _____ No ✓

If yes, have all arrangements been made for its preparation? Yes _____ No _____

If yes, date ordered _____

If no, why not? Already filed with court.

Estimated date of completion: _____

Estimated number of pages: _____

Name and address of court reporter(s): _____

9. CUSTODY STATUS IN CRIMINAL APPEALS: Is the appellant in custody and serving a sentence imposed as a result of a conviction which is the subject of this appeal? yes

If so, state the length of the sentence imposed. 18 months jail followed by 12 months community control

10. ISSUES:

If this case involves the determination of the constitutionality of a statute, cite the statute involved.

N/A

Please state in short form the anticipated issues raised. For example, on criminal issues: denial of motion for judgment of acquittal, denial of motion to suppress evidence, error in sentence; on civil issues, award of alimony, error in valuation of assets for equitable distribution, error in determining contract damages; error in admission of hearsay at trial.

Error in unsealing confidential federal non-prosecution agreement and addendum.

11. TYPE OF CASE: PLACE A CHECK BY THE MOST APPROPRIATE TYPE OF CASE:

A. Civil

- _____ 1. Domestic Relations - divorce, child custody, paternity or support
- _____ 2. Child dependency
- _____ 3. Adoption/Termination of Parental Rights
- _____ 4. Professional Malpractice
- _____ 5. Products Liability
- _____ 6. Negligence
- _____ 7. Contract or Indebtedness
- _____ 8. Condominium - rules violations, developer suits
- _____ 9. Foreclosure - mortgage, lien
- _____ 10. Inmate Appeal - gain time, rule challenges, disciplinary action
- _____ 11. Attorney's Fees
- _____ 12. All others - specify _____

B. Criminal

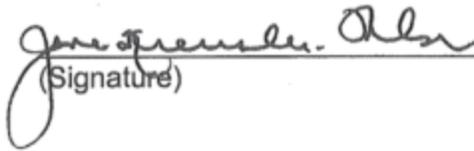
- _____ 1. Direct Appeal - judgment and sentence
- _____ 2. Direct Appeal - sentence only
- _____ 3. Direct Appeal - juvenile
- _____ 4. Collateral Attack - (Rule 3.850 or habeas corpus) - judgment and sentence
- _____ 5. Collateral Attack - (Rule 3.800, Rule 3.850 or habeas corpus) - sentence only
- _____ 6. Collateral Attack - juvenile
- _____ 7. Appeal by the State
- 8. All Others - specify unsealing of confidential federal non-prosecution agreement

C. Administrative

- _____ 1. Department of Professional Regulation
- _____ 2. Unemployment Appeals Commission
- _____ 3. Rule Challenge - specify agency _____
- _____ 4. All others - specify _____

Certificate of Service

I certify that a copy hereof has been furnished by _____ mail _____ this 8th day
 of _____ July _____, 2009, to: See attached.
 mail/hand delivery/fax



 (Signature)

JANE KREUSLER-WALSH

 (Print Name)

2a. NOTICE OF APPEARANCE OF COUNSEL FOR APPELLANT

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[REDACTED]

BARBARA J. COMPIANI

[REDACTED]

Appellate counsel for petitioner

ROBERT D. CRITTON

[REDACTED]

Counsel for petitioner

JACK A. GOLDBERGER

[REDACTED]

Counsel for petitioner

2b. APPELLEE'S TRIAL COUNSEL AND/OR APPELLATE COUNSEL (IF KNOWN)

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Counsel for non-party intervener, E.W.

DEANNA K. SHULLMAN



Counsel for non-party intervener, Palm Beach Newspapers d/b/a The Palm Beach Post

SPENCER T. KUVIN



Counsel for non-party intervener, B.B.

JUDITH STEVENSON ARCO



Counsel for respondent, State of Florida

JEFFREY H. SLOMAN



3. INTERESTED PERSONS:

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B.B.
(non-party intervener)

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Rothstein Rosenfeldt Adler
(counsel for non-party intervener, E.W.)

Honorable Jeffrey J. Colbath
(circuit court judge)

Barbara J. Compiani of
Kreusler-Walsh, Compiani & Vargas, P.A.
(appellate counsel for petitioner)

Robert D. Critton of
Burman, Critton, Luttier & Coleman
(counsel for petitioner)

Jeffrey Epstein
(petitioner)

Jack A. Goldberger of
Atterbury, Goldberger & Weiss, P.A.
(counsel for petitioner)

Jane Kreusler-Walsh of
Kreusler-Walsh, Compiani & Vargas, P.A.
(appellate counsel for petitioner)

Spencer T. Kuvin of
Leopold-Kuvin, P.A.
(counsel for non-party intervener, B.B.)

Honorable Kenneth A. Marra
(judge, Southern District of Florida)

Palm Beach Newspapers d/b/a The Palm Beach Post
(non-party intervener)

Deanna K. Shullman of
Thomas, Locicero & Bralow, P.L.
(counsel for non-party intervener, The Palm Beach Post)


U.S. Attorney--Southern District

State of Florida
(respondent)

E.W.
(non-party intervener)

CERTIFICATE OF SERVICE

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U.S. ATTORNEY'S OFFICE
SOUTHERN DISTRICT

[REDACTED]
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ROTHSTEIN ROSENFELDT ADLER

[REDACTED]
SPENCER T. KUVIN
LEOPOLD-KUVIN, P.A.

[REDACTED]
JACK A. GOLDBERGER
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DEANNA K. SHULLMAN
THOMAS, LOCICERO & BRALOW, P.L.

ROBERT D. CRITTON
BURMAN, CRITTON, LUTTIER & COLEMAN

KREUSLER-WALSH,
COMPIANI & VARGAS, P.A.



W



JEFFREY H. SLOMAN
U.S. Attorney's Office-Southern District
500 South Australian Avenue, Suite 400
West Palm Beach, FL 33401

3340188235 C023

cc: Barbara J. Compiani
Jane Kreuzler-Walsh
Deanna K. Shullman
Hon. Jeffrey J. Colbath

Jack A. Goldberger
State Attorney-P.B.
Spencer T. Kuvin

Robert D. Critton, Jr.
U.S. Attorney'S Office
William J. Berger

DISTRICT COURT OF APPEAL
FOURTH DISTRICT
1525 PALM BEACH LAKES BLVD.
WEST PALM BEACH, FLORIDA 33401

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IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

July 1, 2009

CASE NO.: 4D09-2554
L.T. No. : 20098CF009381A

JEFFREY EPSTEIN

STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that the motion to file under seal is granted.

ORDERED FURTHER that this court grants the Motion to Use One Appendix to Support the Emergency Petition for Writ of Certiorari and Emergency Motion to Review Denial of Stay.

ORDERED FURTHER that this court grants petitioner's Emergency Motion to Review the Order June 26, 2009, that denies the motion for stay. The June 25, 2009, order granting the motion to unseal is stayed pending further order of this court.

ORDERED FURTHER that within ten (10) days of this order respondent shall show cause why the petition should not be granted. Respondent shall address this court's jurisdiction to review the order as well as the merits of the petition.

ORDERED FURTHER that petitioner may have ten (10) days thereafter to reply.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Sharon R. Bock, Clerk
Robert D. Critton, Jr.
Deanna K. Shullman
Hon. Jeffrey J. Colbath

Barbara J. Compiani
Jane Kreuzler-Walsh
Spencer T. Kuvin

Jack A. Goldberger
U.S. Attorney's Office
William J. Berger

dl

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



EFTA00233607

DISTRICT COURT OF APPEAL
FOURTH DISTRICT
1525 PALM BEACH LAKES BLVD.
WEST PALM BEACH, FLORIDA 33401



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U.S. Attorney'S Office
Southern District
500 South Australian Avenue
Suite 400
West Palm Beach, FL 33401



**IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA**

CASE NO. 4D09-2554

JEFFREY EPSTEIN,

Petitioner,

vs.

**STATE OF FLORIDA, PALM BEACH NEWSPAPERS, INC.,
E.W., and B.B.,**

Respondents.

Pending in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida,
Case Nos. 2006 CF 9454AMB, 2008 CF 9381AMB

**PALM BEACH NEWSPAPERS, INC. d/b/a *THE PALM BEACH POST'S*
RESPONSE TO EMERGENCY PETITION FOR WRIT OF CERTIORARI**

THOMAS, LoCICERO & BRALOW PL
Deanna K. Shullman
James B. Lake
101 N.E. 3rd Avenue, Suite 1500
Ft. Lauderdale, Florida 33301

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INTRODUCTION

This appeal concerns attempts to thwart public scrutiny of how government responded to the prostitution of children in Palm Beach County. In the order at issue below, the trial court correctly unsealed a non-prosecution agreement and its addendum. A predecessor judge found that the agreement significantly induced Petitioner to accept a plea agreement that allowed him to serve 18 months in jail for luring children to his Palm Beach mansion for “massages” or sexual activity. At the time that the non-prosecution agreement and its addendum (collectively “the NPA”) were accepted for filing, no basis for closure was asserted or found. Thus, the NPA was not properly sealed, and the prior closure order was properly vacated. Moreover, no basis currently exists for closure, and the pending petition – like Petitioner’s filings below – contain nothing more than unsubstantiated assertions that confidentiality is required. Thus, continued closure is not warranted. Certainly unsealing the documents was not such a clear departure from the essential requirements of law as to warrant certiorari relief. Consequently, the pending petition must be denied.

In addition, this Court should exercise its inherent authority under Rule 9.410 of the Florida Rules of Appellate Procedure to sanction Petitioner for his frivolous and bad faith attempts to cloak the resolution of the criminal charges

against him in secrecy by awarding to Respondent, Palm Beach Newspapers, Inc. d/b/a *The Palm Beach Post* (“the Post”) its attorneys’ fees and costs in responding to this petition.

JURISDICTION

The Post adopts Respondent E.W.’s statement concerning jurisdiction. Insofar as this Court finds jurisdiction, the Post requests that this Court expedite its consideration of this matter, so as to remedy the denial to date of the public’s and press’s constitutional and common law rights of access. Art. I, § 24, Fla. Const.; Fla. R. App. P. 9.100(d); *Sarasota-Herald Tribune* ■. State, 924 So. 2d 8, 11 (Fla. 2d DCA 2006) (rule 9.100(d) permits “expedited” review of orders excluding the press).

NATURE OF THE RELIEF SOUGHT

The Post asks this Court to deny the pending petition and to let stand the circuit court’s Orders dated June 25, 2009 and June 26, 2009, which unsealed the NPA, and directed the Clerk of Court in and for the Fifteenth Judicial Circuit of Florida to release these records to the public.¹

¹ Petitioner has sought review of the June 26, 2009 Order by motion rather than by petition for writ of certiorari. Though the June 26 Order does address the matter of Petitioner’s request for stay, the order also directs the Clerk of Courts to release the records, review of which should have been sought by certiorari.

STATEMENT OF THE CASE AND FACTS

This proceeding concerns the public's constitutional and common law rights of access to records crucial to the disposition of criminal charges against Petitioner Jeffrey Epstein. Specifically, Petitioner seeks review of two orders unsealing a non-prosecution agreement and its addendum (collectively the "NPA"), which are records of the trial court below. State v. Epstein, Case Nos. 06 CF9454AMB, 08 CF9381AMB.

Petitioner was investigated by the State of Florida for felony solicitation of children for prostitution. (A-7 at p. 3, l. 15 – p. 4, l. 4; A-8.) The victims allege Epstein brought and paid teenage girls to come to his home for sex and/or "massages." (A-11 at ¶ 6 and n. 1.) Epstein's minor victims are numerous (A-7 at p. 20, ll. 13-18) and the case drew attention of the highest-ranking law enforcement officials in Palm Beach County. Frustrated during the course of the investigation, Police Chief ██████████ even penned a letter to State Attorney Barry Krischer, calling his office's handling of the investigation "highly unusual" and suggesting that he disqualify himself from the case if the state would not act (A-11 at ¶ 6; A-18 at p. 36, ll. 7-14².) A federal investigation of Epstein's conduct as it relates to soliciting children for prostitution ensued.

² References to "A-" are to Petitioner's Appendix.

Then abruptly, in June 2008, Epstein pleaded guilty in the trial court below to felony solicitation of minors for prostitution, was designated a Sexual Offender pursuant to Florida law, and was sentenced to 18-months jail and community control. (A-8.) Before accepting the terms of his state plea, Epstein entered into a non-prosecution agreement with federal prosecutors. (A-7 at p. 38, ll. 9-18.) The non-prosecution agreement and its addendum were filed under seal in the lower court on July 2, 2008 and August 25, 2008, respectively.³

According to Epstein's lawyers (and presumably the NPA itself⁴), taking the state plea was a condition of the NPA. (A-7 at p. 38, ll. 13-18.) The NPA is invalidated if Epstein fails to fulfill the obligations of the state plea deal (A-7 at p. 38, ll. 22 – 25.) In accepting the state plea, the trial court viewed the NPA a "significant inducement in accepting" the plea and recognized that the NPA influenced the defendant to make the state plea. (A-7 at p. 39, ll. 19-21; p. 40, ll. 10-13.)

In considering the plea at the hearing, the court requested a sealed copy of the non-prosecution agreement and asked whether Petitioner had signed it. (A-7 at

³ The NPA and its addendum were filed under seal in this Court on July 1, 2009.

⁴ The Post and its lawyers have not seen the NPA, though it was reviewed, *in camera*, by the trial court (A-19).

p. 40, ll. 4-6.) Epstein's lawyer indicated it was signed and interjected that he "would like to seal the copy." (A-7 at p. 40, ll. 7-9.) Representatives from the U.S. Attorneys' Office were present at the hearing (A-7 at p. 39, ll. 22-23) but stated no objection to filing the non-prosecution agreement in the state court file. Thereupon, without any further consideration, the trial court requested a sealed copy of the non-prosecution agreement. (A-7 at p. 40, ll. 9-10.) On July 2, 2008, without any further proceedings on the issue, the court entered an Agreed Order Sealing Document in Court File, which allowed Epstein to file the non-prosecution agreement that was attached to the Agreed Order under seal. (A-9.) By its terms, the closure order was limited to the non-prosecution agreement and did not include its addendum. The order makes no findings with respect to closure and never expires. (A-9.) The addendum was filed six weeks later, on August 25, 2008, without any further order of the Court with respect to closure.

Since Epstein pleaded guilty to soliciting a minor for prostitution, he has been named in at least 12 civil lawsuits that – like the charges in this case – allege Epstein lured teenage girls to his Palm Beach mansion for sex and/or "massages." (A-1)⁵ At least 11 cases are pending. In another lawsuit, one of the Epstein's

⁵ See also A-11 at ¶ 6 (citing Doe ■. Epstein, Case No. 08-80069 (S.D. Fla. 2008); Doe No. 2 ■. Epstein, Case No. 08-80119 (S.D. Fla. 2008); Doe No. 3. ■. Epstein, Case No. 08-80232 (S.D. Fla. 2008); Doe No. 4. ■. Epstein, Case No. 08-

(Footnote continued on next page)

accusers has alleged that federal prosecutors failed to consult with her regarding the disposition of possible charges against Epstein. (A-1; A-18 at p. 22, l. 20 – p. 23, l. 15.)⁶

Given the important public interest in this matter, on June 1, 2009, the Post moved to intervene below for the purpose of obtaining access to the NPA. The Court granted the Post's motion to intervene on June 10, 2009 (Supp.A.-1 at 1.)⁷ The trial court granted the Post's petition for access on June 25, 2009 (A-16, A-18) and on June 26, 2009 denied Epstein's motion for stay and directed the clerk to release the records at noon on Thursday, July 2, 2009. (A-17, A-19.) Epstein's emergency petition for writ of certiorari regarding the June 25, 2009 order and his emergency motion to review the June 26, 2009 order followed.

80380 (S.D. Fla. 2008); Doe No. 5 █ Epstein, Case No. 08-80381 (S.D. Fla. 2008); C.M.A. █ Epstein, Case No. 08-80811 (S.D. Fla. 2008); Doe █ Epstein, Case No. 08-80893 (S.D. Fla. 2008); Doe No. 7 █ Epstein, Case No. 08-80993 (S.D. Fla. 2008); Doe No. 6 █ Epstein, Case No. 08-80994 (S.D. Fla. 2008); Doe II █ Epstein, Case No. 09-80469 (S.D. Fla. 2009); Doe No. 101 █ Epstein, Case No. 09-80591 (S.D. Fla. 2009); Doe No. 102 █ Epstein, Case No. 09-80656 (S.D. Fla. 2009); Doe No. 8 █ Epstein, Case No. 09-80802 (S.D. Fla. 2009)).

⁶ See also (A-11 at ¶ 6) (citing In re: Jane Doe, Case No. 08-80736 (S.D. Fla. 2008)).

⁷ References to "Supp.A." correspond to the supplemental appendix filed by the Post simultaneous with this brief.

SUMMARY OF THE ARGUMENT

Petitioner's initial filing of the NPA under seal was achieved without any regard for the public's constitutional, statutory and common law rights of access. Florida law flatly prohibits the standardless permanent closure that was achieved in this case. The public has a right to know what transpires in its courtrooms generally and in particular has an interest in understanding how the resolution of this highly unusual prosecution occurred.

Moreover, no present basis for closure exists. Petitioner has not shown – and cannot show – that continued closure is proper. Instead, he has made conclusory assertions and relied on red herrings in attempting to keep the public from understanding how government responded to his solicitation of children to perform sex acts.

The trial court, having reviewed the records *in camera*, saw through Petitioner's flimsy arguments. The trial court did not depart from the essential requirements of law in ordering the records unsealed.

ARGUMENT

I. STANDARD OF REVIEW.

The standard of review for a petition for writ of certiorari is whether the trial court departed from the essential requirements of law. See Combs v. State, 436 So. 2d 93, 95 (Fla. 1983); Anderson v. E.T., 862 So. 2d 839, 840 (Fla. 4th DCA 2003).

II. THE TRIAL COURT CORRECTLY UNSEALED THE NPA.

The NPA was neither properly sealed in the first instance nor is properly sealed at present. The trial court did not depart from the essential requirements of law in unsealing the records.

A. The NPA was not Properly Sealed in the First Instance.

The NPA – a significant inducement to Petitioner’s acceptance of the plea – was accepted for filing under seal without any deference to the public’s right of access to court records. Such standardless closure cannot withstand scrutiny.

Florida has traditionally served as a model for open government and courts. It is well-settled in Florida that “[a] trial is a public event [and] [w]hat transpires in the court room is public property.” Miami Herald Publ’g Co. v. Lewis, 426 So. 2d 1, 7 (Fla. 1982) (quoting Craig v. Harney, 331 U.S. 367, 376 (1947)). When considering a request to seal judicial records, this Court’s “analysis must begin

with the proposition that all civil and criminal court proceedings are public events, records of court proceedings are public records and there is a strong presumption in favor of public access to such matters.” Sentinel Communications Co. v. Watson, 615 So. 2d 768, 770 (Fla. 5th DCA 1993). Indeed, the people of this State added Article I, Section 24 to the Declaration of Rights in the Florida Constitution to make clear that the right of access to the records of all three branches of government is of constitutional magnitude. All citizens possess the right to “inspect or copy” such records.

Plea agreements and related documents typically are public record. See Oregonian Publishing Co. v. United States District Court, 920 F.2d 1462, 1465 (9th Cir. 1990) (“plea agreements have typically been open to the public”); United States v. Kooistra, 796 F.3d 1390, 1390-91 (11th Cir. 1986) (documents relating to defendant’s change of plea and sentencing could be sealed only upon finding of a compelling interest that justified denial of public access). Florida law likewise recognizes a strong public right of access to documents a court considers in connection with sentencing. See Sarasota Herald Tribune, Div. of the New York Times Co. v. Holtzendorf, 507 So. 2d 667, 668 (Fla. 2d DCA 1987) (“While a judge may impose whatever legal sentence he chooses, if such sentence is based on a tangible proceeding or document, it is within the public domain unless otherwise

privileged.”).

Under Florida law, closure of judicial records is warranted only under very limited circumstances. In particular, the party seeking closure must demonstrate that:

1. restricting public access is necessary to prevent a serious and imminent threat to the administration of justice;
2. no alternatives, other than a change of venue, would protect the defendant’s right to a fair trial; and
3. closure would be effective in protecting the rights of the accused, without being broader than necessary to accomplish this purpose.

Miami Herald Publ’g Co. v. Lewis, 426 So. 2d 1, 6 (Fla. 1982). This test, as well as the standard announced in Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113 (Fla. 1988), was essentially codified in former Rule of Judicial Administration 2.051, now 2.420, which was applicable in both criminal and civil cases. Sarasota-Herald Tribune, 924 So. 2d at 11.

In April 2007, the Florida Supreme Court adopted emergency amendments to Rule 2.420 in response to Florida media reports of hidden cases and secret dockets, a process that has come to be known as “super-sealing.” In re Amendments to Florida Rule of Judicial Administration 2.420, 954 So. 2d 16 (Fla. 2007). In adopting the interim rule, the Florida Supreme Court confirmed its commitment to safeguarding the public’s constitutional right of access to court

records, which the Court held “must remain inviolate.” Id. at 17. By its terms, Rule 2.420 does not apply to criminal cases; however, later this year the Supreme Court will consider amendments to the rule that essentially seek to apply the standards applicable in civil cases to criminal ones. See In re Amendments to Florida Rule of Judicial Administration 2.420, Case No. 07-2050 (Fla. 2007). In the circuit below, however, the new Rule 2.420 procedures have been in effect since September 29, 2008. (Supp.A.-2.) In addition, the sealing of the NPA violated principles of Florida law established long before the amendments to Rule 2.420. Consequently, the unsealing of these documents was proper.

1. Closure of the Non-Prosecution Agreement Improperly Occurred without a Motion, Notice, Hearing, or a Proper Order.

The non-prosecution agreement was sealed pursuant to an agreed order dated July 2, 2008 (A-9.) At the time, Fifteenth Judicial Circuit Administrative Order 2.032 applied to requests for closure of court records in the lower court. (Supp.A.-3.) The order requires a motion, notice, and a hearing, none of which occurred in this case. (Id. at ¶¶ 1 – 3.) The order further provides that closure is proper only upon showing that the factors set forth in Lewis have been met (Id. at ¶ 4) and that “[t]he reasons supporting sealing the file must be stated with specificity in the order sealing the court record” (Id. at ¶ 5), neither of which occurred in this

case.

Contrary to Petitioner's assertion (Petition at 13) neither this rule, nor the common law of Florida, nor the Florida constitution contemplates *sua sponte* closure of court records upon simple request of the Court or any party. Nor was the closure, in fact, *sua sponte*, as Epstein himself requested closure (A-7 at p. 40, ll. 7-9.) and admittedly filed the NPA in the court file under seal pursuant to an agreed order (A-18 at p. 11, ll. 22-23). The agreed order (A-9) contains none of the findings required by Lewis or paragraph 5 of the Administrative Order. The closure order is invalid and was properly vacated.

2. Closure of the Addendum Improperly Occurred without any Procedures to Protect the Right of Access at all.

With respect to the sealing of the addendum to the non-prosecution agreement, no procedures were put in place at all. The original non-prosecution agreement was attached to the July 2, 2008 agreed order, which allowed to be filed under seal the "attached document" only. (A-9.) It appears from the record that the addendum – which was not attached to the July 2, 2008 order but was filed six weeks later – was simply filed and accepted under seal without any order allowing for closure. Closure of the addendum was thus improper on that basis as well. The trial court properly unsealed these documents.

B. No Basis Exists for Current Closure of the Non-prosecution Agreement or Its Addendum.

After the Post intervened, at a June 10, 2009 hearing on the issue of closure, the trial court asked Epstein's counsel about the Post's motion (A-11) specifically.

Epstein's counsel replied:

If the Post's position is the public has a right to acc – access this then there is a procedure in place and ultimately the Court has to conduct a hearing and do a balancing test where you look at whether there is some compelling government interest and that's going to require an evidentiary hearing. So I have no great objection to filing the Request for Closure and then having a hearing in front of the Court.

(Supp.A.-1 at p. 3, l. 22 – p. 4, l. 5.) Importantly, Petitioner's counsel did not assert that he had complied with these requirements, but that he would. The Court reset the hearing for June 25, 2009.

Petitioner filed a Motion to Make Court Records Confidential (A-13) on June 11, 2009. In it, Epstein cited four reasons the NPA should remain under seal:

1. to prevent a serious and imminent threat to the administration of justice⁸;
2. to protect a compelling government interest;
3. to avoid substantial injury to innocent

⁸ This assertion apparently has been abandoned by Petitioner, because his petition asserts that he has asserted three bases for confidentiality, and does not include this basis. Accordingly, it will not be addressed, except to make note of the fact that Epstein has not at any point in this proceeding identified a threat to the administration of justice, much less a serious and imminent threat.

third parties; and 4. to avoid substantial injury to a party by disclosure of matters protected by a common law and privacy right, not generally inherent in these specific type of proceedings sought to be closed. (A-13 at ¶ 5.) The motion failed to explain how these interests were implicated, failed to address alternatives to closure, and failed to explain how closure would protect the interests. (A-13.)

The lower court heard argument on June 25, 2009. The United States Attorneys' Office was provided notice of the hearing, but chose not to appear. (A-18 at p. 7, ll. 10-14.) In fact, the U.S. Attorney's Office has taken no position on this matter throughout the lower court proceedings and specifically informed counsel for E.W. that it had no position (A-18 at p. 7, ll. 10-14.) At that hearing, the Court found that the proper procedures to initially seal the records were not followed and then heard argument from Epstein's counsel on his June 11, 2009 motion (A-13). Epstein's counsel consented to that procedure. (A-18 at p. 9, ll. 16-18.) The Judge held that neither the State, nor the U.S. Government, nor Epstein had shown why the NPA ought to remain confidential and ordered the records unsealed.⁹ (A-16.)

⁹ It is important to note that the State Attorney's Office appeared at the hearing for the limited purpose of objecting to the release of minor victim's names, which turned out to be a non-issue because the Court, having reviewed the documents *in camera*, determined that no victim's names were included in the documents (A-19 at p. 21, ll. 14-19.) The federal government, as mentioned above, took no position

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The trial court did not depart from the essential requirements of law in unsealing the NPA. Administrative Order of the Fifteenth Judicial Circuit 2.303 applies to Petitioner's June 11, 2009 request to seal the records in this case. (Supp.A.-2.) That administrative order – consistent with Lewis and its progeny – applies Rule 2.420's standards to requests for closure of records in criminal proceedings in the Fifteenth Judicial Circuit. Any order authorizing closure must contain findings that one of the interests set forth in Rule of Judicial Administration 2.420(c)(9)(A) is met and that closure is no broader than necessary to protect that interest. (Supp.A.-2 at ¶ 4.); see also Lewis, 426 So. 2d at 3. Motions seeking closure must include a “signed certification by the party making the request that the motion is being made in good faith and is supported by a sound factual and legal basis.” (Supp.A.-2 at ¶ 1.) Epstein's initial oral request for closure failed to comply with the requirements of then-applicable law, and he has never presented a sound factual or legal basis for present closure. Consequently, unsealing the documents was fully consistent with the essential requirements of law.

and did not appear at any of the hearings on this matter. Nor has either agency appealed the lower court's decision.

1. Petitioner Cannot Identify a Rule 2.420(c)(9) Interest that Warrants Closure.

Though Epstein's belated written motion identified four interests set forth in Rule 2.420(c)(9) that purportedly warrant closure, he failed to explain – either in his motion or at the hearing – how any of them applied. Instead, Petitioner asserted closure was proper because these broad interests would be served by closure, principles of comity require closure, and because the records contain information protected from disclosure by Federal Rule of Criminal Procedure 6. Even though Petitioner now attempts to craft his arguments around the interests set forth in Rule 2.420(c)(9), the trial court cannot be said to have departed from the essential requirements of the law in holding that Epstein's burden had not been met.

Epstein's petition asserts that closure is necessary to protect a compelling government interest because, he claims, the U.S. Attorneys' Office – who has been notified of these proceedings and has taken no position whatsoever – has a compelling interest in having the confidentiality provision of its contract with Mr. Epstein honored. See Petition at 15. Assuming such a provision exists (the Post has not seen the document), Petitioner is in no position to assert a compelling interest on the government's behalf, given its decision to take no position on the matter. If such an interest exists, the U.S. government is the party to assert it, and

it has specifically failed to do so. The trial court did not depart from the essential requirements of law in holding that Petitioner failed to demonstrate a compelling interest in closure.

Epstein next asserts that closure is warranted to protect the interest of “innocent third parties” and identifies those third parties as Mr. Epstein’s co-conspirators. (Petition at 15). Again, Mr. Epstein lacks standing to assert the interests of third parties. Doe v. Museum of Science and History of Jacksonville, Inc., Case No. 92-32567, 1994 WL 741009 (Fla. 7th Jud. Cir. June 8, 1994) (plaintiff lacks standing to assert privacy interest of third party, minor victims of sexual assault by defendant’s former employee, who had been convicted) (copy attached at Supp.A.-4). In addition, even if the third parties Mr. Epstein identifies – his purported co-conspirators – were before the Court, they would have no privacy interest in matters pertaining to their criminal conduct. Post-Newsweek Stations, Florida, Inc. v. Doe, 612 So. 2d 549 (Fla. 1992) (Does, whose names were implicated in criminal prostitution scheme, had no right to privacy by virtue of their participation in a crime and thus their names could not be redacted from records provided to the public). Thus, the trial judge did not depart from the essential requirements of law in finding insufficient third-party interests to justify closure.

The third interest Epstein seeks to invoke is his own right to privacy. See Petition at 15. While Epstein actually does have standing to assert his own right to privacy, Florida law is clear that closure is only proper to protect a “substantial injury to a party by disclosure of matters protected by a common law or privacy right *not generally inherent in the specific type of proceeding sought to be closed.*” Fla. R. Jud. Admin. 2.420(c)(9)(A)(vi) (emphasis added). Epstein argues disclosure of a plea agreement is not generally inherent in a state court plea hearing See Petition at 16. That argument is absurd. Of course Epstein’s plea agreement is generally inherent in his criminal prosecution. It is the very reason that prosecution ended, and as the lower court recognized in accepting the plea, it was a “significant inducement” to Petitioner to take the state’s deal. (A-7 at p. 39, ll. 19-21.; p. 40, ll. 10-13.)

Moreover, Florida’s constitutional right to privacy is expressly subordinate to the rights of Floridians to access the records of their government. To wit, Article I, § 23, which sets forth the right to privacy, further provides: “[t]his section shall not be construed to limit the public’s right of access to public records and meetings as provided by law.” Fla. Const. Art. I, § 23. As the Florida Supreme Court has recognized, the privacy amendment has not been construed to protect names and addresses contained in public records. Post Newsweek, 612 So.

2d at 552. The trial court, having reviewed the NPA *in camera*, certainly had an opportunity to assess whether a privacy interest not inherent in his criminal prosecution for felony solicitation of children for prostitution is implicated by the NPA. It cannot in good faith be argued that the trial court departed from the essential requirements of law in determining that no such privacy interest was implicated.

2. The Federal Court's Decisions in Case No. 08-80736 (S.D. Fla. 2008) Did Not Preclude the Lower Court's Orders Unsealing the NPA.¹⁰

Nor did the trial court's rejection of Petitioner's comity argument depart from the essential requirements of law. In the Southern District of Florida, one of the minor victims of Epstein filed a Petition for Enforcement of Crime Victim's Rights Acts (A-1).¹¹ The victim also asked the federal court to allow her to share the NPA with third parties (A-3). Judge Marra denied the motion, finding – as the U.S. Government had argued (A-4) – that *the NPA was not a record of the federal court*. (A-6) (“First, as respondent points out, the Agreement was not filed in this

¹⁰ The Post adopts and incorporates E.W.'s arguments and analysis on this issue in addition to the arguments it sets forth herein.

¹¹ The Post notes that A-3 through A-5 were not part of the record below. If the Court is inclined to consider these federal court pleadings, then in fairness it must consider those related pleadings which are attached hereto as Supp.A.-5 through Supp.A.-7 of the Post's Supplemental Appendix.

case, under seal or otherwise.”). The federal court also declined to provide any relief from restrictions on the parties’ use and dissemination of the discovery document without prejudice. (A-6 at p.2.)

Petitioner argues that the Post should be required to seek relief in Judge Marra’s court. He mischaracterizes the nature of the proceedings there. There is no document to unseal in Judge Marra’s court. The NPA is not a record of that court, and thus any effort by the Post to obtain access to the NPA there would be futile, and any order requiring it be unsealed by the lower court herein does not conflict with any decision of the federal court. (A-16 at p.3.)

In fact, when Judge Marra has been asked to seal records of his court that quote the NPA, he has refused to do so, and has required such records to be filed in the public court file (Supp.A.-5 through Supp.A.-7)¹² Thus, though the NPA is not a record of the federal court, the federal court has rejected attempts to file portions of it under seal. As a result, portions of the NPA appear in the public court file in

¹² Page 4 of Supp.A.-5 and paragraph 5 of Supp.A.-6, both publicly on file in the federal court, quote from the NPA. In addition, Epstein’s own lawyers quoted extensively from the NPA in seeking to stay one of the civil suits against him. (A-11 at ¶ 6; A-18, p. 35, l. 18 – p. 36, l. 1 (incorporating by reference Supp.A.-5 through Supp.A.-6 and Supp.A.-7 (C.M.A. ■. Epstein, Case No. 08-cv-80811 (S.D. Fla. 2008) at Dkt. 33 pp. 2-5)).)

the federal civil litigation against Epstein. (Supp.A-5 at p. 4; Supp.A.-6 at ¶ 5; Supp.A.-7 at pp. 2-5.) The proverbial cat is already out of the bag.

Notwithstanding, the NPA is a record of this lower court. The lower court did not enter an order conflicting with Judge Marra's rulings (A-16 at p. 3 – expressly noting lack of conflict with Judge Marra's orders) and did not depart from the essential requirements of law in unsealing the NPA.

3. Federal Rule of Criminal Procedure 6 Did Not Preclude the Lower Court's Orders Unsealing the NPA.¹³

Finally, unsealing the NPA did not conflict with federal law. Records available under state law are sealed by federal law only when federal law absolutely conflicts with state law and requires confidentiality of the records. The Supremacy Clause of the United States Constitution, Art. VI, U.S. Const., comes into play only when federal law clearly requires the records to be closed, and the state is clearly subject to its provisions. E.g., Wallace ■. Guzman, 687 So. 2d 1351, 1353 (Fla. 3d DCA 1997) (exemptions to federal Freedom of Information Act do not apply to state agencies); Hous. Auth. of the City of Daytona Beach ■. Gomillion, 639 So. 2d 117 (Fla. 5th DCA 1994) (Federal Privacy Act does not exempt from disclosure records of housing authority which are open for inspection

¹³ The Post adopts and incorporates E.W.'s arguments and analysis on this issue in addition to the arguments it sets forth herein.

under Florida Public Records Act); Fla. Sugar Cane League, Inc. v. Fla. Dept. of Env'tl. Reg., Case No. 91-2108 (Fla. 2d Jud. Cir. Sept. 20, 1991), per curiam affirmed, 606 So. 2d 1267 (Fla. 1st DCA 1992 (documents received by state agency in course of settlement negotiations to resolve federal lawsuit and confidential settlement agreement with U.S. Department of Justice open to inspection because federal law did not clearly require confidentiality) (Supp.A.-8.) Federal law imposes no such preemption of the Florida constitution and common law in this case.

In particular, Federal Rule of Criminal Procedure 6(e) does not restrict access to the NPA. Federal Rule 6(e) restrains grand jurors, court reporters, government attorneys, interpreters and the like from disclosing matters occurring before the grand jury. Petitioner – apparently the former target of the grand jury – is none of these persons. His actions in filing the NPA under seal do not implicate Rule 6(e) no matter what information the NPA contains. The lower court's actions in unsealing the NPA likewise do not implicate Rule 6, because the lower court also is not restrained by Rule 6(e).

Moreover, the information contained in the NPA does not constitute “matters occurring before the grand jury” within the meaning of Rule 6. The secrecy rule is limited to such matters for the purpose of “preventing targets of an

investigation from fleeing or tampering with witnesses or grand jurors, encouraging witnesses to appear voluntarily and speak fully and frankly, avoiding damage to the reputation of subjects or targets of the investigation who are not indicted, and encouraging grand jurors to investigate suspected crimes without inhibition and engage in unrestricted deliberations.” Lockhead Martin Corp. v. Boeing Co., 393 F. Supp. 2d 1276, 1279 (M.D. Fla. 2005). The rule aims to “prevent disclosure of the way in which information was presented to the grand jury, the specific questions and inquiries of the grand jury, the deliberations and vote of the grand jury, the targets upon which the grand jury’s suspicion focuses, and specific details of what took place before the grand jury.” In re Grand Jury Investigation of Ven-Fuel, 441 F. Supp. 1299, 1302-03 (M.D. Fla. 1977). In other words, Rule 6 is implicated if disclosure would reveal secret inner workings of the grand jury. U.S. v. Rosen, 471 F. Supp. 2d 651, 654 (E.D. Va. 2007).

Disclosure of details of a government investigation that is independent of a parallel grand jury proceeding does not violate Rule 6. Id. Statements by a prosecutor’s office about its own investigation, therefore, are not covered by the secrecy rule. Id. at 655. Likewise, the mere mention of other targets of an investigation does not implicate the grand jury secrecy rule. E.g., In re Interested Party, 530 F. Supp. 2d 136,140-42 (D.D.C. 2008) (government not prohibited by

Rule 6 from disclosing plea agreement and other materials); Doe v. Hammond, 502 F. Supp. 2d 94, 99-101(D.D.C. 2007) (same). Moreover, “when the fact or document is sought for itself, independently, rather than because it was stated before or displayed to the grand jury, there is no bar of secrecy.” In re Grand Jury Investigation of Ven-Fuel, 441 F. Supp. at 1304. Here, the Post seeks to review the NPA for its own intrinsic value, and not for the purpose of discerning what transpired before the grand jury now more than a year ago. It is clearly well within the public’s right and interest to review the NPA, given the circumstances surrounding the investigation and prosecution of Petitioner as well as the civil claims by women who say Epstein sought to make them his child prostitutes. These facts clearly constitute a proper basis for unsealing these improperly sealed documents.

Finally, and even assuming for a moment that the NPA contains grand jury information – which the Post doubts – when the grand jury’s work has concluded, and the accused apprehended, the veil of secrecy no longer is necessary and safely may be lifted. In re Grand Jury Investigation of Ven-Fuel, 441 F. Supp. at 1303. Here, Petitioner has been convicted, and nothing in the record suggests the grand jury’s work is ongoing. Consequently, no basis exists for finding that the trial court departed from the essential requirements of law.

CONCLUSION

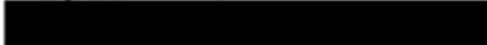
The trial court was correct in unsealing the non-prosecution agreement and its addendum. These materials were not properly sealed in the first instance. Moreover, Epstein has not and cannot provide any basis for closure at this juncture. The trial court did not depart from the essential requirements of law in unsealing the NPA. Its order should be affirmed, and the Post should be awarded its fees and costs and such other further relief as this Court deems proper.

Respectfully submitted,

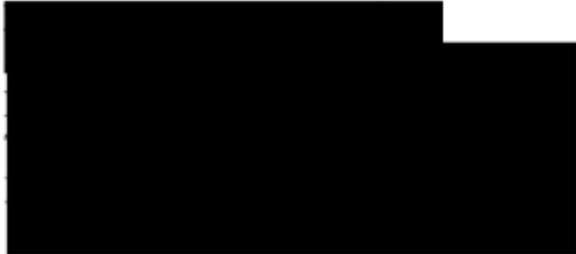
THOMAS LoCICERO & BRALOW, PL



Deanna K. Shullman



James B. Lake



Attorneys for The Palm Beach Post

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to: **Hon. Jeffrey Colbath**, Palm Beach County Courthouse, 205 N. Dixie Highway, Room 11F, West Palm Beach, FL 33401; R. **Alexander Acosta**, United States Attorney's Office - Southern District, 500 S. Australian Ave., Ste. 400, West Palm Beach, FL 33401; **Barbara Burns, Esq.**, State Attorney's Office - West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401; **Jack Alan Goldberger, Esq.**, Atterbury Goldberger, et al., [REDACTED] [REDACTED] **Robert D. Critton, Esq.**, Burman, Critton, Luttier & Coleman, [REDACTED] [REDACTED] **Jane Kreuzler-Walsh, Esq.**, [REDACTED] [REDACTED] **Spencer T. Kuvin, Esq.**, Leopold-Kuvin, [REDACTED] and **Bradley J. Edwards, Esq. and William J. Berger, Esq.**, Rothstein Rosenfeldt Adler, 4 [REDACTED] on this 10th day of July, 2009.



Attorney

CERTIFICATE OF TYPE, SIZE AND STYLE

Counsel for Petitioners certifies that this Petition is typed in 14 point
(proportionately spaced) Times New Roman.



Attorney

Report Selection Criteria

Case ID: 502008CF009381AXXXMB
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: 502008CF009381AXXXMB
Case Caption: EPSTEIN, JEFFREY E
Division: W - COLBATH
Filing Date: Thursday , June 26th, 2008
Court: CF - FELONY
Location: MB - MAIN BRANCH
Jury: N-Non Jury
Type: CF - FELONY
Status: CLSD - CLOSED CASE

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name	Aliases:	
2			JUDGE	<u>W</u>	COLBATH, JUDGE JEFFREY	Aliases:	none
3			DEFENDANT	<u>Z4167391</u>	EPSTEIN, JEFFREY E	Aliases:	none
4	3	30-JUN-2008	ATTORNEY	<u>0262013</u>	GOLDBERGER , ESQ, JACK A	Aliases:	none

Docket Entries

Docket Number	Docket Type	Book and Page No.	Attached To:
	0000C - CASE INITIATED TIMELINESS RPT		
Filing Date:	26-JUN-2008		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
1	INFO - INFORMATION SHEET		
Filing Date:	26-JUN-2008		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:	ARISES FROM 2006CF009454AXX		
1 A	AREC - ARREST RECORD		
Filing Date:	26-JUN-2008		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:	none.		
1 B	TEXT - SEE DOCUMENT DESCRIPTION		
Filing Date:	26-JUN-2008		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:	ROUGH ARREST - NO PROBABLE CAUSE FILED		
1 C	WOAR - WAIVER OF ARRAIGNMENT		
Filing Date:	26-JUN-2008		
Filing Party:	EPSTEIN, JEFFREY E		
Disposition Amount:			
Docket Text:	FILED BY JACK GOLDBERG		
	EVSCH - HEARING EVENT SCHEDULED		
Filing Date:	27-JUN-2008		
Filing Party:			
Disposition Amount:			

Docket Text:		<i>none.</i>
2	JDN - JUDICIAL NOTES	
Filing Date:	27-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	SET CASE FOR 6/30/08 @ 8:30 AM FOR STATUS CHECK	
	EVHLD - EVENT HELD	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	CR-DAMES. PLEAD & ADJ GUILTY AS CHARGED. STIP/FOUND: SEXUAL OFFENDER. PBCJ 6 MOS W/CD FOR 1 DAY, TO RUN CONSECUTIVE W/06-9454AXX. PBCJ SENTENCE FOLLOWED BY 12 MOS PROB. DEFT MUST REGISTER AS A SEXUAL OFFENDER W/IN 48 HRS OF RELEASE. DNA SWAB. MER	
2 A	GUIL - JUDGMENT OF GUILTY	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	<i>none.</i>	
2 B	FNGR - FINGERPRINTS	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	<i>none.</i>	
2 C	SORD - SENTENCE ORDER	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		
Docket Text:	<i>none.</i>	
2 D	SORC - SENTENCE ORDER - CONTINUED	
Filing Date:	30-JUN-2008	
Filing Party:	EPSTEIN, JEFFREY E	
Disposition Amount:		

Docket Text:	<i>none.</i>
2 E	RITE - WAIVER OF RIGHTS
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
2 F	PLS - PLEA SHEET
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
2 G	GLSS - GUIDELINE SCORESHEET
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
2 H	O AFC - ORDER ASSESSING FEES/COST
Filing Date:	30-JUN-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE PUCILLO FOR MCSORLEY) IN THE AMOUNT OF \$473.00 AS CONDS OF PROB. MER
3	AREC - ARREST RECORD
Filing Date:	01-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	RECOMMIT
	RCMIT - RECOMMITMENT
Filing Date:	01-JUL-2008
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
	CLSD - CLOSED CASE

Filing Date:	08-JUL-2008
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
RCPT - RECEIPT FOR PAYMENT	
Filing Date:	14-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	A Payment of -\$473.00 was made on receipt CFMB30200. From Bond ID: 00073142
4	ORD - ORDER
Filing Date:	21-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE MCSORLEY) OF PROBATION..NUNC PRO TUNC 6/30/08
5	PROC - CRT REPORTER TRANSCRIPT OF
Filing Date:	22-JUL-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PLEA CONFERENCE, TAKEN 6/30/08
6	MOT - MOTION
Filing Date:	04-DEC-2008
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO CLARIFY SENTENCE TO CORRECT SCRIVENER'S ERROR FILED BY JACK GOLDBERGER
7	AGOR - AGREED ORDER
Filing Date:	04-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE COLBATH) THAT THE ORDER OF COMMUNITY CONTROL IS CORRECTED TO DELETE SPECIAL CONDITION #26 AND #27.
8	MOT - MOTION

Filing Date:	12-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(NONPARTY E.W'S) TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS.
9	ORSH - ORDER SETTING HEARING
Filing Date:	15-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR 5/29/09 RE:MOTION TO VACATE ORDER TO SEAL AND UNSEAL RECORD
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	19-MAY-2009
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
10	NOH - NOTICE OF HEARING
Filing Date:	26-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SET FOR 5/29/09 10:30
12	PONG - PLEA OF NOT GUILTY
Filing Date:	29-MAY-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	01-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	NON PARTY E.W.'S MOTION TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS
	EVCAN - EVENT

CANCELLED/SETTLED	
Filing Date:	01-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
11	RNOH - RE-NOTICE OF HEARING
Filing Date:	01-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	SETTING CASE FOR OTHER HEARING ON 6/10/2009 AT 10:30 AM FILED BY BRADLEY EDWARDS, ESQ. RE: NON PARTY E.W.'S MOTION TO VACATE ORDER SEALING RECORDS AND UNSEAL RECORDS, HEARING SEET FOR 5/29/2009 IS CANCELLED
13	MOT - MOTION
Filing Date:	03-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO VACATE ORDER SEALING RECORD AND UNSEAL RECORDS FILED BY BRADLEY EDWARDS, ESQ.
14	MOT - MOTION
Filing Date:	03-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PALM BEACH POST'S MOTION TO INTERVENE AND PETITION FOR ACCESS FILED BY DEANNA SHULLMAN, ESQ.
EVRST - EVENT RESET	
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-BELTRAN. MOTION TO INTERVENE-GRANTED. NO ACTION ON MOTION TO UNSEAL. RESET FOR MOTION HRG ON 6/25/09. BLE
15	ORD - ORDER
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	

Docket Text:	(COLBATH)
16	CEF - COURT EVENT FORM
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
17	ORD - ORDER
Filing Date:	10-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(COLBATH)
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	11-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	<i>none.</i>
19	MOT - MOTION
Filing Date:	11-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO MAKE COURT RECORDS CONFIDENTIAL. FILED BY J. GOLDBERGER, ESQ
18	MOT - MOTION
Filing Date:	15-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO INTERVENE AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUBIN, ESQ
	EVSCH - HEARING EVENT SCHEDULED
Filing Date:	25-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	TO STAY DISCLOSURE

EVHLD - EVENT HELD	
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-WIGGINS (COLBATH) DEFT PRES W/J.GOLDBERGER, GRANTED, CASE RESET FOR MOTION TO STAY DISCLOSURE
EVSCH - HEARING EVENT SCHEDULED	
Filing Date:	25-JUN-2009
Filing Party:	
Disposition Amount:	
Docket Text:	TO STAY DISCLOSURE
20	CEF - COURT EVENT FORM
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
21	MOT - MOTION
Filing Date:	25-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	TO STAY DISCLOSURE OPF THE NON- PROSECUTION AGREEMENT AND ADDENDUM PENDING REVIEW. FILE BY R. CRITON, PA
EVHLD - EVENT HELD	
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	CR-WIGGINS. MOTION TO STAY, DENIED. WRITTEN ORDER TO FOLLOW. DOCUMENTS IN QUESTION ARE DELAYED UNTIL NOON ON THURSDAY 02-JUL-2009. MOTION TO COMPEL THE DEFT TO POST BOND - DENIED.
25	MOT - MOTION
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	

Docket Text:	FOR ATTY'S FEES AND COSTS. FILED BY D. SHULLMAN, PA
31	CEF - COURT EVENT FORM
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>
32	ORD - ORDER
Filing Date:	26-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(JUDGE COLBATH) THAT THE MOTIONS TO SEAL THE COURT RECORDS ARE DENIED. THE MOTIONS TO INTERVENE ARE GRANTED. THE MOTION TO UNSEAL THE DOCUMENTS IS GRANTED.
23	RESP - RESPONSE TO:
Filing Date:	29-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	MOTION TO STAY AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUVIN, ESQ
24	ODMO - ORDER DENYING MOTION
Filing Date:	29-JUN-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(COLBATH) TO STAY DISCLOSURE AGREEMENT
26	PROC - CRT REPORTER TRANSCRIPT OF
Filing Date:	01-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	PROCEEDINGS BEFORE THE COURT,
27	PROC - CRT REPORTER TRANSCRIPT OF
Filing Date:	01-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E

Disposition Amount:	
Docket Text:	PROCEEDINGS BEFORE THE COURT
22	ORD - ORDER
Filing Date:	02-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<p>THAT THE MOTION TO FILE UNDER SEAL IS GRANTED. ORDERED FURTHER THAT THIS COURT GRANTS THE MOTION TO USE ONE APPENDIX TO SUPPORT THE EMERGENCY PETITION FOR WRIT OF CERTIORARI AND EMERGENCY MOTION TO REVIEW DENIAL OF STAY. ORDERED FURTHER THAT THIS COURT GRANTS PETITIONERS EMERGENCY MOTION TO REVIEW THE ORDER JUNE 26, 2009, THAT DENIES THE MOTION FOR STAY. THE JUNE 25, 2009 ORDER GRANTING THE MOTION TO UNSEAL IS STAYED PENDING FURTHER ORDER OF THE COURT. ORDERED FURTHER THAT WITHIN TEN (10) DAYS OF THIS ORDER RESPONDENT SHALL SHOW CAUSE WHY THE PETITION SHOULD NOT BE GRANTED. RESPONDENT SHALL ADDRESS THIS COURTS JURISDICTION TO REVIEW THE ORDER AS WELL AS THE MERITS OF THE PETITION. ORDERED FURTHER THAT PETITIONER MAY HAVE TEN (10) DAYS THEREAFTER TO REPLY.</p>
28	MOT - MOTION
Filing Date:	06-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	NONPARTY E.W.'S MOTION FOR ATTORNEYS FEES AND COSTS FILED BY W. BERGER
29	RESP - RESPONSE TO:
Filing Date:	06-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	(NTERVENER'S) MOTION TO STAY AND SUPPORTING MEMORANDUM OF LAW. FILED BY S. KUVIN, ESQ
30	EXLT - EXHIBIT LIST
Filing Date:	08-JUL-2009
Filing Party:	EPSTEIN, JEFFREY E
Disposition Amount:	
Docket Text:	<i>none.</i>

**IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA**

CASE NO. 4D09-2554

JEFFREY EPSTEIN,

Petitioner,

vs.

**STATE OF FLORIDA, PALM BEACH NEWSPAPERS, INC.,
E.W., and B.B.,**

Respondents.

Pending in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida,
Case Nos. 2006 CF 9454AMB, 2008 CF 9381AMB

**PALM BEACH NEWSPAPERS, INC. d/b/a *THE PALM BEACH POST'S*
MOTION FOR APPELLATE ATTORNEYS' FEES AND COSTS**

THOMAS, LoCICERO & BRALOW PL
Deanna K. Shullman
James B. Lake
101 N.E. 3rd Avenue, Suite 1500
Ft. Lauderdale, Florida 33301

**RESPONDENT PALM BEACH POST'S
MOTION FOR APPELLATE ATTORNEYS' FEES AND COSTS**

Pursuant to Florida Rules of Appellate Procedure 9.400 and 9.410 and Administrative Order Number 2.303 of the Fifteenth Judicial Circuit of Florida, Respondent Palm Beach Newspapers, Inc., d/b/a The Palm Beach Post (the "Post") moves this Court for an award of attorneys' fees and costs in connection with this review proceeding. In support thereof, the Post states:

1. The Post is a daily newspaper that has covered this matter and related proceedings. In an effort to inform its readers concerning these matters, the Post relies upon (among other things) law enforcement records and judicial records.

2. On June 10, 2009, the trial court granted the Post's Motion to Intervene in this action for the purpose of seeking access to court records. Specifically, the Post sought access to a non-prosecution agreement that was docketed on July 2, 2008, and an addendum docketed on August 25, 2008.

3. On June 25, 2009, the trial court heard oral argument on the Post's (and other non-parties') motions. The Court found that the documents had not properly been sealed in the first instance and further denied Petitioner Jeffrey Epstein's Motion to Make Court Records Confidential dated June 11, 2009.

4. The Post is entitled to its fees and costs in this matter pursuant to Administrative Order Number 2.303 of the Fifteenth Judicial Circuit of Florida.¹ Specifically, that order allows sanctions to be imposed against the moving party "if a motion to seal is not made in good faith and is not supported by a sound legal and factual basis." Admin. Or. 15th Jud. Cir. Fla. 2.303.

5. The Post also is entitled to fees and costs in this matter pursuant to Florida Rule of Judicial Administration 9.410, which gives appellate courts discretion to impose sanctions if an appeal "presents no justiciable question and is so devoid of merit on the face of the record that there is little prospect it will ever succeed." E.g., Visoly v. Sec. Pac. Cred. Corp., 768 So. 2d 482, 490-91 (Fla. 3d DCA 2000) (citing Fla. R. App. P. 9.410). Frivolous appeals include those in which a case is found:

- a. to be completely without merit in law and not supported by a reasonable argument for an extension, modification or reversal of existing law;
- b. to be contradicted by overwhelming evidence;
- c. as having been undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or
- d. as asserting material factual statements that are false.

Id. at 491.

¹ A copy of Administrative Order 2.303 is attached at Tab 2 to the Post's Supplemental Appendix, which was filed with its response brief.

6. In this case, Mr. Epstein's certiorari petition – like his initial filing of these documents under seal and his June 11, 2009 Motion to Make Court Records Confidential – was neither made in good faith nor supported by a sound legal and factual basis. The certiorari petition asserted three interests that ostensibly would be protected by closure but cited no record evidence in support of that assertion. Indeed, both in his motion below and at the hearing on the motion, Epstein made no genuine effort to demonstrate by evidence how and why any material interests would be served by closure. Instead, Epstein's arguments addressed extraneous, inapplicable issues that did not support closure and demonstrated his lack of good faith in bringing his motion. Moreover, Epstein's assertion that the trial court's orders contradicted and were preempted by federal court rulings was simply false. Epstein likewise failed to substantiate his arguments in this proceeding, instead again relying on red herrings and unsubstantiated blanket assertions to support his baseless claim that closure is or was proper in this case.

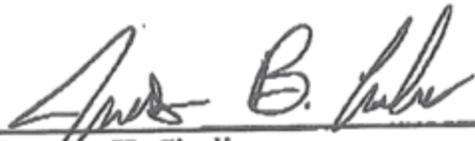
7. Rather, it appears Epstein opposed unsealing of these records simply for the purpose of shielding from public view documents material to the resolution of criminal charges against him for soliciting children for prostitution. In other words, the petition to this Court was merely a ploy intended to delay the public access to judicial records that that the Florida Constitution and common law guarantee.

8. In sum, Epstein's arguments for restricting access to his non-prosecution agreement and its addendum are without merit, Epstein's petition to this Court was likewise without support in fact or law, and the Post is entitled to an award of its fees and costs in defending its rights of access.

WHEREFORE, the Post respectfully requests that this Court award to it its fees and costs and grant such other relief as the Court deems proper.

Respectfully submitted,

THOMAS, LOCICERO & BRALOW
PL



Deanna K. Shullman

James B. Lake



Attorneys for The Palm Beach Post

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished U.S. Mail to: **Hon. Jeffrey Colbath, Palm Beach County Courthouse, 205 N. Dixie Highway, Room 11F, West Palm Beach, FL 33401; and via facsimile and U.S. Mail to: R. Alexander Acosta, United States Attorney's Office - Southern District, 500 S. Australian Ave., Ste. 400, West Palm Beach, FL 33401; Barbara Burns, Esq., State Attorney's Office - West Palm Beach, 401 North Dixie Highway, West Palm Beach, FL 33401; Jack Alan Goldberger, Esq., Atterbury Goldberger, et al., 2 [REDACTED]**

[REDACTED] Robert D. Critton, Esq., Burman, Critton, Luttier & Coleman [REDACTED]

[REDACTED] Jane Kreuzler-Walsh,

Esq., [REDACTED]; Spencer

T. Kuvin, Esq., Leopold-Kuvin, P.A., 2 [REDACTED]

[REDACTED] and Bradley J. Edwards, Esq. and William J.

Berger, Esq., Rothstein Rosenfeldt Adler, [REDACTED]

[REDACTED] on this 20th day of July, 2009.



Attorney

United States Attorney's Office
Southern District of Florida
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401-6235



DATE: 7-20-09

TO: [REDACTED]

ORGAN: [REDACTED]

FAX #: _____

SUBJECT: _____

FROM: Shaw
(561) 820-8711
(561) 820-8777 (Fax)

NUMBER OF PAGES, INCLUDING THIS PAGE: 8

COMMENTS: FYI

- Original document:
- To follow via regular mail
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 - Nothing to follow, FAX = original

07-20-'09 14:21 FROM-THOMAS & LOCICERO

THOMAS LOCICERO & BRALOW



facsimile transmittal

To: **Marilyn, Judicial Assistant to Judge Colbath** FAX **561-355-1616**

R. Alexander Acosta, Esq., USAO (561) 820-8777

Barbara Burns, Esq., ASAO (561) 355-7351

Jack Alan Goldberger, Esq. (561) 835-8691

Bradley J. Edwards, Esq. (954) 527-8663
William J. Berger, Esq.

Robert D. Critton, Esq. 561-844-6929

Spencer T. Kuvin, Esq. 561-515-1401

Jane Kreusler-Walsh, Esq. 561-820-8762

From: **Deanna K. Shullman, Esq.** Date: **07/20/09**

Re: **State J. Epstein** Pages: **7**

Urgent For review Please comment Please reply Please recycle

Please see attached .

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confidential

IN THE DISTRICT COURT OF
APPEAL OF THE STATE OF
FLORIDA, FOURTH DISTRICT

JEFFREY EPSTEIN,

Petitioner,

CASE NO. 4D09-2554
PALM BEACH COUNTY
L.T. CASE NO. 2008 CF 009381A

STATE OF FLORIDA,

Respondent.

**AGREED MOTION TO FILE ONE REPLY SUPPORTING
PETITION FOR WRIT OF CERTIORARI AND FOR THE TIME TO RUN
FROM SERVICE OF THE LAST-FILED RESPONSE**

Petitioner, JEFFREY EPSTEIN, requests this Court's permission to file one reply supporting his petition for certiorari to the three separate responses filed by respondents and for the time to run from service of the last-filed response, for the following reasons:

1. Mr. Epstein filed an Emergency Petition for Certiorari to review an order compelling disclosure of a confidential federal non-prosecution agreement and addendum.

2. On July 1, 2009, this Court ordered respondent to show cause within 10 days why the petition should not be granted. This Court allowed Mr. Epstein 10 days to reply.

3. Three groups of respondents filed responses: (1) E.W.; (2) B.B.; and (3) Palm Beach Newspapers, Inc. d/b/a Palm Beach Post ("the Post"). Each respondent is represented by different counsel. The responses were served by mail and on different days.

4. Due to the overlap of arguments in the three responses, it would benefit the parties and this Court if Mr. Epstein filed one reply to the three responses.

Accordingly, Mr. Epstein requests permission to file one reply to the three responses. Mr. Epstein requests this Court to order that the reply is due 10 days from service of the last-filed response.

Opposing counsel has contacted counsel for respondents (William J. Berger for E.W.; Diana L. Martin for B.B.; and Deanna K. Shullman for the Post), who have all advised they have no objection to this motion.

I HEREBY CERTIFY that a copy of the foregoing has been sent by ^{email and} mail

this 14~~th~~ day of July, 2009, to:


U.S. Attorney's Office-Southern District
500 South Australian Avenue, Suite 400
West Palm Beach, FL 33401

JUDITH STEVENSON ARCO
State Attorney's Office-West Palm Beach
401 North Dixie Highway
West Palm Beach, FL 33401

WILLIAM J. BERGER
ROTHSTEIN ROSENFELDT ADLER

DEANNA K. SHULLMAN


SPENCER T. KUVIN
DIANA L. MARTIN
LEOPOLD-KUVIN, P.A.


HONORABLE JEFFREY COLBATH
15th Judicial Circuit
Palm Beach County Courthouse
205 North Dixie Highway
Room 11F
West Palm Beach, FL 33401

ROBERT D. CRITTON of
BURMAN, CRITTON, LUTTIER & COLEMAN


and

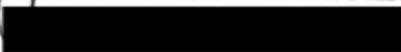
JACK A. GOLDBERGER of
ATTERBURY, GOLDBERGER & WEISS, P.A.


and

JANE KREUSLER-WALSH and
BARBARA J. COMPIANI of
KREUSLER-WALSH, COMPIANI & VARGAS, P.A.



Counsel for Petitioner

By: Jane Kreusler-Walsh
JANE KREUSLER-WALSH


KREUSLER-WALSH,
COMPIANI & VARGAS, P.A.



JEFFREY H. SLOMAN
U.S. Attorney's Office-Southern District
500 South Australian Avenue, Suite 400
West Palm Beach, FL 33401

3340166235 0023

IN THE DISTRICT COURT OF
APPEAL OF THE STATE OF
FLORIDA, FOURTH DISTRICT

CASE NO: 4D09-2554
L.T. No. 2008 CF 9381

JEFFREY EPSTEIN,
Petitioner,

STATE OF FLORIDA,
et. al,

Respondents.

E.W.'S MOTION TO FILE PORTION OF RESPONSE UNDER SEAL

Respondent, E.W., moves to file under seal a portion of her response (dealing with this Court's lack of jurisdiction) to the petition for writ of certiorari, on the following grounds:

In a portion of her response, attached hereto in the sealed envelope, E.W. discusses page-by-page the sealed document, the Non-Prosecution Agreement. Public disclosure of this portion of E.W.'s response would violate this Court's order staying disclosure of the NPA.

For this reason, E.W. moves to file the attached under seal. Copies of the sealed portion have been served only on the attorneys for petitioner and the U.S. Attorney.

The undersigned counsel spoke with Jane Kreuzler-Walsh, attorney for petitioner, and represents that she does not oppose this motion to file under seal.

I HEREBY CERTIFY that a correct copy of the foregoing has been served by mail this 13 day of July, 2009, on the parties listed below.

ROTHSTEIN ROSENFELDT ADLER
Attorneys for E.W.



By: 
William J. Berger



SERVICE LIST

Jane Kreuzler-Walsh
Kreuzler-Walsh, Compiani & Vargas, P.A.



Deanna K. Shullman
400 North Ashley Drive, Suite 1100



Spencer T. Kuvin
Leopold- Kuvin, P.A.
2025 PGA Boulevard, Suite 200

Robert D. Critton of
Burman, Critton, Luttier & Coleman

Jack A. Goldberger of
Atterbury, Goldberger, & Weiss, P.A.

U.S. Attorney's Office-Southern District
500 South Australian Avenue, Suite 400
West Palm Beach, Fl 33401

Judith Stevenson Arco
State Attorney's Office- West Palm Beach

Honorable Jeffrey Colbath
Palm Beach County Courthouse
205 North Dixie Highway
Room 11F
West Palm Beach. Fl 33401

IN THE DISTRICT COURT OF
APPEAL OF THE STATE OF
FLORIDA, FOURTH DISTRICT

CASE NO: 4D09-2554
L.T. No. 2008 CF 9381

JEFFREY EPSTEIN,
Petitioner,

STATE OF FLORIDA,
E.W., THE PALM BEACH POST,
B.B,

Respondents.

E.W.'S RESPONSE TO PETITION FOR CERTIORARI¹

Respondent, E.W., would show this Court as follows:

1. Introduction:

In an unprecedented request that should shock the conscience of this Court, a convicted child sex offender seeks to conceal from the public the details of his deal with the U.S. Attorney (filed in the lower court) that led him to plead guilty to state charges of procuring a minor to engage in prostitution (a 2nd degree felony) and felony solicitation of prostitution (a 3rd degree felony). His request would make a sham of the public's state

¹ E.W. has also filed herewith under seal a request to dismiss the petition for lack of jurisdiction. That response is filed under seal because it discusses page-by-page the sealed document.

constitutional right to open government. The lower court properly denied this attempt. This Court, it is respectfully submitted, should deny the petition for certiorari and vacate the order staying disclosure of the sealed documents.

E.W. is one of three respondents to the petition for writ of certiorari. The other two, The Palm Beach Post and B.B., are filing their own responses. The respondents have tried not to repeat the arguments of each other.

E.W. limits her response here to arguments in the petition based on certain federal court rulings. E.W. incorporates by reference the other responses.

The proceedings that have led to the petition for writ of certiorari before this Court began with E.W.'s May 12, 2009 motion below to vacate the Agreed Order Sealing Document entered by the trial court on July 2, 2008 at the plea and sentencing hearing in the state court criminal proceedings against petitioner. The Agreed Order authorized the filing under seal of the Non-Prosecution Agreement ("NPA") between petitioner and the United States. E.W. also moved to unseal an Addendum to the NPA that was sealed on August 23, 2008 without any hearing or court order whatsoever.

The Palm Beach Post and B.B. were granted leave to intervene and file their own motions similar to E.W.'s.

The lower court, after two hearings, granted the motions and ordered the NPA and Addendum to be unsealed. Petitioner seeks review of that order and the order denying his motion to stay pending appellate review. For the reasons stated below and in the other responses, it is submitted his requests should be denied.

2. Judge Marra expressly authorized the lower court to resolve the issue of whether the state court records should be unsealed.

Petitioner places great emphasis on rulings entered by United States District Judge Kenneth Marra, asserting that the order under review here "violated" those rulings.

In fact, at a June 12, 2009 hearing² attended by petitioner's counsel, Judge Marra expressly authorized the lower court, the Honorable Judge Jeffrey Colbath, to resolve the issue of whether the state court records should be unsealed.

Responding to a request that he look at the NPA in camera, Judge Marra stated:

THE COURT: Maybe Judge Colvat [sic] will resolve this issue for me.

² The hearing was in the federal civil lawsuits against petitioner.

MR. JOSEFSBERG: Even if he doesn't, Your Honor, I believe we are allowed to show it to you.

THE COURT: I'll tell you what: **I'll wait for Judge Colvat [sic] to rule**, and then if he rules that it should remain sealed, then I'll consider whether or not I want to have it submitted to me in camera.

(E.W.-1³, page 42, lines 8-15(emphasis added).)

All of petitioner's assertions that Judge Colbath's order under review here "violated" Judge Marra's orders, that the lower court gave only "lip service" to Judge Marra, that the supremacy clause and the doctrine of federal grand jury secrecy are violated, are all shown by the above quotes to be false assertions. Judge Marra looked forward to a resolution by the lower court of what is purely a state law issue: should these state court records be unsealed?

3. The federal court orders do not support the petition and in fact undermine it.

Even if we were to ignore Judge Marra's quotes above, his written orders do not support the petition and in fact undermine it.

The first federal order petitioner relies on is an "Order To Compel Production And Protective Order" dated August 21, 2008. The second is an "Order" dated February 12, 2009. (Copies, respectively, are A-2 and A-6 in petitioner's Appendix.⁴)

³ Reference to E.W.'s Appendix is by "(E.W.-__)."

These orders were entered in a proceeding brought by two of petitioner's victims, Jane Does 1 and 2,⁵ against the United States under the federal Crime Victim's Rights Act, 18 U.S.C. sec. 3771. Petitioner was not a party to the proceeding. (A-1.) That proceeding is separate from the federal damages actions brought by petitioner's victims. It should also be noted that there has never been a federal court prosecution of petitioner. There was no federal indictment or information filed.

In the proceeding where Judge Marra entered the two orders relied on by petitioner, the Jane Does sought to obtain production **directly from the files of the U.S. Attorney** of a copy of the NPA. They were not asking Judge Marra to "unseal" a state court record.

Thus, the context of Judge Marra's two orders was a proceeding by two private citizens solely against the United States to get a federal judge to order the federal prosecutor to produce a document **directly from the federal prosecutor's files**, not to unseal state court records. The factors going into this extraordinary request—to order the federal prosecutor to turn over documents directly from the files of the prosecutor--are not at all relevant to the purely state law issues before this Court on whether a

⁴ Reference to petitioner's Appendix is by: "(A-__)."

⁵ Undersigned's firm represents both Jane Does, filed the papers giving rise to the orders and attended the hearings referenced therein.

document was improperly sealed by a state court and should be unsealed by that court.

The issues before this Court must be resolved by interpreting and applying the state constitution, state open government policies, state rules of judicial administration and the administrative orders of the state circuit court below. They have nothing whatsoever to do with the federal government.

In the August 21, 2008 order, Judge Marra granted the Jane Does' *ore tenus* motion seeking production of the NPA directly from the U.S.

Attorney, but with restrictions. He ordered the U.S. Attorney to produce a copy of the NPA to Jane Does' attorneys under a nondisclosure restriction. Notably, the order makes no reference whatsoever to the state court order sealing the NPA in the state court record (even though the state court order (A-9) had already been entered on July 2, 2008) or to the fact that the NPA was already sealed in the state court file (at the plea colloquy on June 30, 2008). That is because the dispute before Judge Marra solely involved two crime victims seeking a document directly from the files of the U.S.

Attorney, not from the state court file, and had nothing to do with unsealing state court records.

The second order entered on February 12, 2009 was on the Jane Does' written motion to remove any restrictions on disclosure so their attorneys

could discuss the NPA with third parties. Again, the context was two crime victims trying to publicly disclose a document directly from the files of the U.S. Attorney. Judge Marra denied the motion because the Jane Does had not shown that they should be able to publicly disclose a document they got directly from the U.S. Attorney's files. This issue, again, has nothing to do with whether the lower court should unseal the state court records.

But in so ruling, Judge Marra indirectly acknowledged the state trial court's jurisdiction to unseal its own records. Judge Marra stated: "If a specific tangible need arises in a civil case petitioners or other alleged victims are pursuing against Epstein, relief should be sought in that case, with notice to the United States, the other party to the Agreement." (A-6, page 2.)

Judge Marra's orders were entered **after** the NPA was sealed by the lower court; they can have nothing whatsoever to do with whether the NPA was properly sealed.

Neither federal order, by their express terms, precludes the lower court from unsealing its own court records. Judge Marra did not enjoin and does not have jurisdiction to enjoin the lower court from unsealing its own records. *Younger* ■ *Harris*, 401 U.S. 37 (1971). As Judge Marra noted, "the [NPA] was not filed in this case [the federal proceeding], under seal or

otherwise.” (A-6, page 1.) The copy of the NPA in the file of the lower court is a state court record, not a federal court record. Playing Judge Marra off on the lower court is a red herring.

CONCLUSION

For the foregoing reasons, the petition should be denied and the stay on disclosure vacated.

I HEREBY CERTIFY that a copy of the foregoing has been served by mail on the parties listed below this 13 day of July, 2009.

I HEREBY CERTIFY that the foregoing is submitted in Times New Roman 14-point font and complies with the font requirement of Rule 9.100.

ROTHSTEIN ROSENFELDT ADLER
Attorneys for E.W.



By: _____

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APPENDIX TO
RESPONSE TO PETITION FOR WRIT OF CERTIORARI

ROBERT D. CRITTON
BURMAN, CRITTON, LUTTIER & COLEMAN



and

JACK A. GOLDBERGER
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(817) 657-8500

and

JANE KREUSLER-WALSH and
BARBARA J. COMPIANI of
KREUSLER-WALSH, COMPIANI & VARGAS, P.A.



Counsel for Petitioner

Document

Tab

Proceedings in Southern District Court

Transcript of Epstein's Motion to Stay Civil Proceedings (6/12/09)

E.W.-1

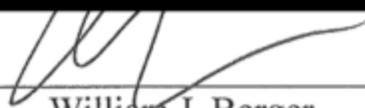
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Appendix has been served by mail on the parties listed below this 13 day of July, 2009.

ROTHSTEIN ROSENFELDT ADLER
Attorneys for E.W.



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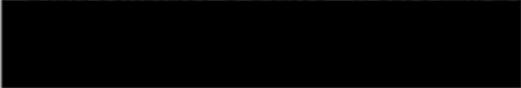
Jack A. Goldberger of
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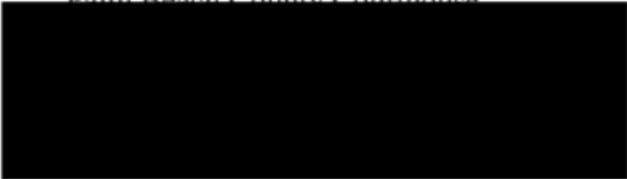
Jeffrey H. Sloman
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Judith Stevenson Arco
State Attorney's Office- West Palm Beach



Honorable Jeffrey Colbath
Palm Beach County Courthouse



09-22785

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION
CASE NO. 08-80119-CIV-MARRA

SCANNED

4 JANE DOE, et al.,		WEST PALM BEACH, FLORIDA
5 Plaintiffs,		JUNE 12, 2009
6 vs.		
7 JEFFREY EPSTEIN,		
8 Defendant.		
9		
10	x	

11 TRANSCRIPT OF MOTION HEARING
12 BEFORE THE HONORABLE KENNETH A. MARRA,
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE PLAINTIFFS:

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Mermelstein & Horowitz

[REDACTED]

For Jane Doe

BRADLEY J. EDWARDS, ESQ.
Rothstein Rosenfeldt Adler

[REDACTED]

Jane Doe 3, 4, 5, 6, 7

19 ISIDRO M. GARCIA, ESQ.
20 Garcia Elkins Boehringer

[REDACTED]

[REDACTED]

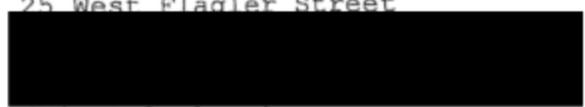
23 RICHARD H. WILLITS, ESQ.

[REDACTED]

25 For C.M.A.

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(Via telephone)

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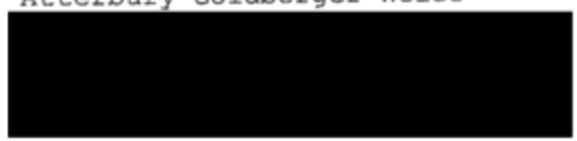


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MARTIN G. WEINBERG, ESQ.



JAY LEFKOWITZ, ESQ.
(Via telephone)

REPORTED BY:

LARRY HERR, RPR-RMR-FCRR-AE
Official United States Court Reporter
Federally Certified Realtime Reporter
400 North Miami Avenue, Room 8N09
Miami, FL 33128 305.523.5290

1 THE COURT: We are here in the various Doe vs. Epstein
2 cases.

3 May I have counsel state their appearances?

4 MR. HOROWITZ: Adam Horowitz, counsel for plaintiffs
5 Jane 2 through Jane Doe 7.

6 THE COURT: Good morning.

7 MR. EDWARDS: Brad Edwards, counsel for plaintiff Jane
8 Doe.

9 THE COURT: Good morning.

10 MR. GARCIA: Good morning, Your Honor. Sid Garcia for
11 Jane Doe II.

12 THE COURT: Good morning.

13 MR. WILLITS: Good morning, Your Honor. Richard
14 Willits, here on behalf of the plaintiff C.M.A..

15 THE COURT: Good morning.

16 MS. EZELL: Good morning, Your Honor. I'm Katherine
17 Ezell from Podhurst Orseck, here with Amy Adderly and Susan
18 Bennett, and I believe my partner, Bob Josefsberg, is going to
19 appear by telephone.

20 THE COURT: Mr. Josefsberg, are you there?

21 MR. JOSEFSBERG: I am, Your Honor.

22 THE COURT: Good morning.

23 MR. JOSEFSBERG: Good morning.

24 THE COURT: All right. Do we have all the plaintiffs
25 stated their appearances? Okay.

1 Defense?

2 MR. CRITTON: Your Honor, Robert Critton on behalf of
3 Mr. Epstein, and my partner, Michael Burman.

4 THE COURT: Good morning.

5 MR. GOLDBERGER: Good morning, Your Honor. Jack
6 Goldberger on behalf of Mr. Epstein.

7 THE COURT: I see we have some representatives from
8 the United States Attorney's Office here.

9 MS. [REDACTED] Good morning, Your Honor. [REDACTED]
10 [REDACTED] for the U.S. Attorney's office.

11 THE COURT: Good morning.

12 Who else do we have on the phone?

13 MR. CRITTON: Your Honor, we have two members of the
14 defense team are on the phone, also.

15 THE COURT: Who do we have on the phone?

16 MR. WEINBERG: Martin Weinberg. Good morning, Your
17 Honor.

18 MR. LEFKOWITZ: Jay Lefkowitz. Good morning, Your
19 Honor.

20 THE COURT: Good morning.

21 I scheduled this hearing for very limited issues
22 which, as you all know, there's been a motion by Mr. Epstein to
23 stay the civil proceedings against him. The one issue I have
24 concern about is Mr. Epstein's contention or assertion that by
25 defending against the allegations in the civil proceedings, he

1 may expose himself to an allegation by the United States in the
2 non-prosecution agreement that he's violated that agreement and
3 therefore would subject himself to potential federal charges.

4 I had asked for some briefing on this. I asked the
5 United States to present its position to me. And I received
6 the Government's written response, which I frankly didn't find
7 very helpful. And I still am not sure I understand what the
8 Government's position is on it.

9 So first let me hear from Mr. Epstein's attorneys as
10 to what do you believe the concern is. I don't believe the
11 non-prosecution agreement has ever been filed in this Court; am
12 I correct?

13 MR. CRITTON: To my knowledge, Your Honor, it has not.

14 THE COURT: So I don't believe I've ever seen the
15 entire agreement. I've seen portions of it.

16 MR. EDWARDS: Your Honor, I believe that it was filed
17 under Jane Doe 1 and 2 vs. United States of America, case under
18 seal in your court.

19 THE COURT: Okay.

20 MR. EDWARDS: In a separate case.

21 THE COURT: In that case, okay. Was it actually filed
22 in that case?

23 MR. EDWARDS: I filed it under seal.

24 THE COURT: In any event, what's Mr. Epstein's concern
25 about if you defend the civil actions, you're going to expose

1 yourself to a claim for a breach by the United States of the
2 non-prosecution agreement?

3 MR. CRITTON: Robert Critton.

4 Your Honor, our position on this case is, I'd say is
5 somewhat different. When this issue originally came before the
6 Court, as you are aware prior to my firm's involvement in the
7 case, there was a motion filed on behalf of Mr. Epstein seeking
8 a stay. And I think it was in Jane Doe 102 and then
9 subsequently Jane Doe 2 through 5 because all of those cases
10 were filed on or about the same time.

11 And at that time the Court looked at the issue and it
12 was based upon a statutory provision at that time. And the
13 Court said I don't find that it's applicable, or for whatever
14 reason I think the Court said I don't consider that to be a
15 pending proceeding or a proceeding at that particular time.

16 In that same order, which was in Jane Doe 2, I
17 believe it's -- not I believe, I know it's docket entry 33, the
18 Court also went on to talk about at that particular point in
19 time dealt with the issue of the discretionary stay.

20 And the Court said at that time, I'm paraphrasing, but
21 the Court also does not believe a discretionary stay is
22 warranted. And what the Court went on to say is that if
23 defendant does not breach the agreement, then he should have no
24 concerns regarding his Fifth Amendment right against
25 self-incrimination.

1 The fact that the U.S. Attorney or other law
2 enforcement officials may object to some discovery in these
3 civil cases is not in and of itself a reason to stay the civil
4 litigation, so that any such issue shall be resolved as they
5 arise in the course of the litigation.

6 And I would respectfully submit to the Court that the
7 position that the Government has taken in its most recent
8 filings changes the playing field dramatically. Because what
9 the Government in essence has said as distinct from the U.S.
10 saying is, well, we object to some discovery, or we may object
11 to some discovery in the civil cases.

12 What they have, in essence, said is if you take some
13 action, Mr. Epstein, that we believe unilaterally, and this is
14 on pages 13 and 14 of their pleading or of their response memo
15 to the Court's inquiry, they say if Mr. Epstein breaches the
16 agreement. They said it's basically like a contract, and if
17 one side breaches, the other side can sue.

18 In this instance what the Government will do is if we
19 believe that Mr. Epstein has breached the agreement, we'll
20 indict him. We will indict him. And his remedy under that
21 circumstance, which is an incredible and catastrophic catch 22
22 is, we'll indict him and then he can move to dismiss. That's a
23 great option.

24 In this particular instance my mandate in defending --
25 and that's a dramatic change in the Government's position,

1 because the Government is not saying, and the Court was pretty
2 specific in what you asked the Government for in its response
3 is, in essence, and it's the same question in a more limited
4 fashion you're posing today is whether Mr. Epstein's defense of
5 the civil action violates the NPA agreement, the
6 non-prosecution agreement, between the U.S. and Mr. Epstein.

7 And the Government refuses to answer that question.
8 They won't come out and say, yes, it will, or no, it won't.
9 What they're doing is they want to sit on the sideline, and as
10 their papers suggest is, they want us to lay in wait and that
11 if, in fact, they believe he violates a provision of the NPA as
12 it relates to the defense of this case or these multitude of
13 cases, then they can come in and indict him -- no notice, no
14 opportunity to cure.

15 We don't think that's what the NPA says, but that's
16 certainly what their papers say. We'll indict him, no notice,
17 no opportunity to cure. We will indict him, and his remedy
18 under that circumstance is that he can move to dismiss the
19 indictment.

20 Well, that's great except Mr. Epstein, his mandate to
21 me and I know his mandate to his criminal lawyers, is: Make
22 certain I don't do anything, in particular in these civil cases
23 that would in any way suggest that I am in willful violation of
24 the NPA.

25 Now, in the Court's prior ruling in the docket entry

1 33, certainly some aspects of the NPA are within Mr. Epstein's
2 control. There's no question about that. But aspects that
3 relate to the defense of these cases, either in terms of the
4 civil lawyers who are defending these, I think there's 12 or 13
5 pending cases in front of you, there's another four cases in
6 the state court, is the risk is substantial, it's real, and it
7 presents a chilling effect for the civil lawyers in moving
8 forward to determine whether or not we're taking some action
9 that in some way may be a violation of the NPA.

10 And the Government's, again, refusal or non-position
11 with regard to past acts that have been taken in the civil case
12 with regard to the defense or future acts that we may take with
13 regard to these contested litigation casts an extraordinary
14 cloud of doubt and uncertainty and fear that the defense of
15 these cases could jeopardize Mr. Epstein and put him in the
16 irreparable position of violating the NPA and then subsequently
17 being indicted.

18 In this particular instance, again, Mr. Epstein has no
19 intention of willfully violating the NPA, but it's of great
20 concern to him. And I'd say with the position that the
21 Government has taken, no notice, no cure period, no opportunity
22 to discuss. Again, we think that's not what the NPA provides,
23 it's not what the deal was between the two contracting parties,
24 the United States and Mr. Epstein. But that's clearly what
25 their papers say under the circumstances, and it would create

1 this irreparable harm to Mr. Epstein under the circumstances.

2 In essence, we're left with a catch 22 in defending
3 the civil cases. We have a mandate to take no action, to take
4 any action which may be deemed to be a violation of the NPA,
5 either in the past or in the future, which would in any way
6 risk Mr. Epstein being indicted by the United States.

7 He has the clear risk of an indictment based upon the
8 papers that the Government filed. It's real, it's not remote,
9 and it's not speculative. It chills the action of the defense
10 in this instance of both Mr. Epstein and his attorneys in
11 trying to defend these cases and decide under the circumstances
12 can we do this, can we take this position with regard to
13 depositions, can we take this legal position with regard to
14 motions to dismiss, with regard to responses, with regard to
15 replies?

16 And we send out paper discovery. Is this in some way
17 if we contact someone who may be an associate of these
18 individuals as part of our investigation, is that potentially
19 in any way a violation of the NPA? Again, we don't think so.

20 And, obviously, again, my direction has been from my
21 client: Don't take any action that would result in me being
22 indicted under the NPA. Well, that's great. But, generally,
23 civil lawyers or civil lawyers in defending a personal injury
24 case or a tort case, which is exactly what these are, and from
25 a practical standpoint, we use various tools to do discovery.

1 They're standard. They're specific. They're very temporary.
2 Very typical.

3 But in this instance, as the Court knows, things are
4 not typical with regard to this case in any way, shape or form.
5 We can't even serve subpoenas, there's objections and there's
6 -- we can't even serve objections to third parties so we can
7 obtain documents unless we have to filter it through the
8 plaintiffs' attorneys. They won't allow us to use their
9 clients' names, even in a subpoena that would never be filed in
10 the court.

11 How do we do a deposition of a third party? We wanted
12 to take the deposition of Jane Doe 4. Well, who is she? Well,
13 we can't tell you that. Well, who's the defendant? Well, we
14 can't tell you that because nobody wants anybody to know
15 anything about the case. They want to present it strictly
16 through rose-colored glasses.

17 And in this particular instance, we simply can't
18 defend this case or take certain action with the spector
19 hanging over us that, in fact, the Government may deem it to be
20 a violation of the NPA, because very clearly in their response
21 papers, they don't say. They say we don't take the position,
22 and then they take a substantial position is we think there's
23 not all that substantial factors that would entitle him to a
24 stay.

25 Except for the one major issue which the Court posed

1 in the question is, is can he defend these cases? That's what
2 I really want to know. Can he defend these cases and, in
3 essence, what he has done in the past or what his defense team
4 has done in the past and what they're going to do in the
5 future, can you give him, Epstein, assurances that the
6 Government under this situation, whatever he does, based on
7 advice of counsel, that that cannot be a willful violation of
8 the NPA, which they can -- they, the U.S. -- can then turn
9 around and say that's a violation of the agreement and,
10 therefore, we're going to go proceed to indict you under the
11 circumstances.

12 Our position is, Your Honor, is that the U.S. has now
13 cavalierly suggested that, as they did in picking up on the
14 court's docket entry or prior order, is, look, compliance with
15 the NPA is solely up to Mr. Epstein. In this type of balance
16 of equities, it doesn't speak in favor of a stay.

17 Well, that's great. And maybe that was the position
18 back in '08, on August 5th of '08, when the issue came up in
19 front of the Court with regard to the initial stay.

20 But the Government's papers under these circumstances
21 suggested a very different set of circumstances. Their own
22 unilateral, which is the issue that we argued in the motion for
23 stay, is that the Government's position is that we can
24 unilaterally indict this man if we think he's breached the NPA.

25 We don't think that's right, but we have no buffer

1 between us and the Government. They'll say, and as the Court
2 knows, the Government has substantial power. The Government
3 does what it wants. Most of the time hopefully they're right.
4 Sometimes they make mistakes.

5 But in this particular instance, my client has rights.
6 We think that there's notice provisions, we think there's cure
7 provisions under the NPA. That's not what their paper says
8 under the circumstances.

9 And what we'd like to know from the Government, and
10 maybe the answer is basically what the Court asks is, let the
11 Government come forward today and say, based on the knowledge
12 that we have, or as of today's date, June 12th, 2009, we, the
13 Government, agree that there is no set of circumstances, not
14 that we're not aware of, but as of today's date, there is
15 nothing that exists that would be a violation of the NPA.

16 THE COURT: Well, that's way beyond what I'm
17 interested in. I don't know what Mr. Epstein may have done
18 outside the context of defending this case that may constitute
19 a violation. And if he has done something outside the context
20 of defending this case that's a violation, I don't care.
21 That's between the United States and Mr. Epstein.

22 I'm only concerned about whether anything he does in
23 defending these civil actions is going to be a violation of the
24 non-prosecution agreement. If he has done something else, it's
25 none of my business, and I don't care, and I'm not going to

1 even ask the Government to give you an assurance that he hasn't
2 done anything that might have violated the agreement up till
3 today. I'm only interested in defending these civil actions.

4 MR. CRITTON: Then I would respectfully submit to the
5 Court that the Government be asked in that limited context, are
6 they as of today, whether there were or not, but as of today is
7 there anything that has been done or will you take the
8 position, the United States, that any position that Mr. Epstein
9 has taken with regard to defending these civil cases is in any
10 way a violation of the NPA?

11 THE COURT: Well, I'm not sure what they're going to
12 say, but that might -- that cures the problem up to this point.
13 But then we have to deal with what's going to happen from here
14 on in. And that's another issue that we have to deal with.

15 So I understand your position.

16 But has anyone suggested to you on behalf of the
17 United States that there is something that you've done in
18 defending this case that they believe may or could be construed
19 as a violation of the non-prosecution agreement? Has anyone
20 pointed to anything that you've done? For example, the fact
21 that you've wanted to take their -- I don't know if you've
22 noticed depositions or not in this case, but if you've sent
23 notice of taking deposition, if you sent requests for
24 production of documents, if you sent interrogatories, if you
25 issued third party subpoenas? Is anything you've done thus far

1 in the context of this case been brought to your attention as a
2 potential violation?

3 MR. CRITTON: I have received no notification nor am I
4 aware that we've received any notification of any action that
5 we have taken today. As I suggested to the Court, I don't know
6 when they've done or not. And in their papers they suggested,
7 well, we don't know everything that's gone on in the civil
8 litigation.

9 But from a practical standpoint, it was a number of
10 comments that were made in their papers is, we can indict, we
11 can see if there's a breach.

12 Judge, I may have some --

13 THE COURT: Before you go on.

14 MR. CRITTON: I'm sorry.

15 THE COURT: You've focused a great deal on the
16 Government's response to my inquiry as supporting your position
17 that you're in jeopardy. But you've made the suggestion, even
18 before this brief was filed, that defending the case was going
19 to potentially result in an assertion or allegation that you
20 breached the non-prosecution agreement.

21 So what was it that caused you to make that initial
22 assertion? Because that's what caught my attention, was not --
23 this brief that the Government has filed was in response to
24 something that you filed initially in your most recent motion
25 for a stay which raised the issue.

1 So what was it that gave you some concern to even
2 raise the issue that defending this case is going to constitute
3 a breach?

4 MR. CRITTON: Because there are other instances where
5 counsel other than myself, not in the civil aspects, where
6 allegations have been made and letters have been sent by the
7 United States suggesting that there's been a violation of the
8 NPA. And under those circumstances, some notification was
9 provided.

10 THE COURT: Did it have anything to do with defending
11 the civil actions?

12 MR. CRITTON: It did not.

13 THE COURT: So then why was that issue raised by you
14 in the first instance?

15 MR. CRITTON: Because of the prospect that the
16 defendant could take, that the U.S. would take the position
17 under the circumstances that a position that we took with
18 regard to the contested litigation may well impact, that the
19 Government may have a very different view of what the
20 interpretation of the agreement is.

21 And as an example is a number of the parties, and I
22 know the Court doesn't want to get into a discussion, the issue
23 is, is under 2255 is that from the defendant's perspective the
24 deal that was cut on that, it was a very specific deal. It
25 dealt with both consensual and contested litigation. It dealt

1 with a secret list of individuals who we had no idea who was on
2 the list, and a commitment that he would under certain
3 circumstances be required to pay a minimum amount of damages,
4 which our position is under 2255 based upon the statute that
5 was in effect at the time, a \$50,000 as to anyone who wanted --
6 who came forward who was on the list and met certain criteria.

7 The position that now has been asserted by a number of
8 the plaintiffs under the circumstances, and it's been pled, and
9 actually a number of the complainants is, is Epstein agreed,
10 and they cite to a letter that was sent by Ms. [REDACTED] from
11 the Government, that says he has to plead guilty or he can't
12 contest liability. That may be true under very, very limited
13 or specific circumstances.

14 But what the plaintiffs have done in a number of the
15 cases, and these are pending motions, is they've said is, well,
16 we think C.M.A. cases is a good example, they've pled 30
17 separate counts of 2255 alleged violations. And they're saying
18 under the circumstances is, therefore, we have 2255 violations,
19 there's 30 of them, so 30 times 150, or should be, or whether
20 it's 150, that's the amount of money that we want, so maybe \$15
21 million, or whatever the number is.

22 Some of the other plaintiffs' lawyers have been even
23 more creative. They've said is, well, we'll agree that it's
24 only one cause of action but that each number of violations;
25 that is, if 20 alleged incidents occurred, that we would

1 consider to be, or that we will argue are violations, then we
2 can take 20 times the 50, or the 150, depending on which
3 statute is applicable.

4 So the Government under that set of circumstance could
5 say, and, again, this is one of the reasons that we raised it,
6 they could say, look, our deal with you was that you couldn't
7 contest liability, that you were waiving liability, or your
8 ability to contest an enumerated offense under 2255.

9 Again, part of the deal was as to an enumerated
10 offense. Okay. Well, what's that mean? What did he plead to?
11 Well, he really didn't plead to anything, which is another
12 issue associated with the 2255. But if the Government comes in
13 and says, no, wait a minute, our position was, is that you're
14 stuck with 2255 and the language within the NPA. And,
15 therefore, whether it's an offense or whether it's multiple
16 offenses or violations or each one represents an individual
17 cause of action, if the Government takes the position that's
18 adverse to what we think the clear reading of the agreement was
19 under those circumstances, they could claim a violation.

20 And as a result -- and that's one of the reasons we
21 put -- that was the most glaring one to us, so we raised that
22 issue. And then when the Government's response came with
23 regard to, is we can just proceed to indict if we think that
24 there's been a breach of the agreement.

25 That puts us at substantial risk and chills our

1 ability to move forward. Thank you, Your Honor.

2 THE COURT: Thank you. Who wants to be heard from the
3 plaintiffs first?

4 Is there any plaintiff's attorney who is contending
5 that the defense of these civil actions by Mr. Epstein is going
6 to constitute a breach of the non-prosecution agreement?

7 MR. JOSEFSBERG: Your Honor, this is Bob Josefsberg.
8 May I speak?

9 THE COURT: Yes, sir.

10 MR. JOSEFSBERG: We're not quite confident that any
11 breaches of any agreement, which were third-party
12 beneficiaries, should be resolved by you. We're not saying it
13 shouldn't. But we have not raised any breach of agreement. We
14 think that is between the United States and Mr. Epstein.

15 What I find incredulous and disingenuous is that
16 Mr. Epstein is saying that he wants a stay because he may be
17 forced into taking actions in the defense of this case that
18 would violate the agreement.

19 And let me make our position clear on that. If he
20 wants to move to take depositions, interrogatories, production,
21 and they are according to your rulings appropriate, not
22 invasive of the privacy of someone, and they are relevant, then
23 I don't know how those could in any way be violations of the
24 agreement.

25 What I find hypocritical is that there are two parts

1 to the agreement that I am a beneficiary of. One of them is
2 that he has agreed that on any action brought in the 2255, he
3 will admit to liability.

4 And I received on May 26 a motion to dismiss, which
5 we're prepared to respond to and disagree with, but totally
6 contesting liability, saying that the statute doesn't apply
7 because the girls are no longer minors and saying, and this is
8 the great one, saying that the predicate of the conviction
9 under 2255 has not been satisfied.

10 Now, the understanding that I have is the agreement
11 between the Government and Mr. Epstein was that the Government
12 desired to see these victims made whole, and wanted them to be
13 in the same position as if Mr. Epstein had been prosecuted and
14 pled or convicted. And they would be able to have the
15 predicate of that criminal conviction, which just as a matter
16 of liability would just be introduced as proof that he's done
17 this.

18 They, under the agreement, are supposed to admit to
19 liability on limited something that's under 2255. He has
20 filed, but since there is no conviction, there can be no civil
21 suit under 2255, with which we disagree. But it is totally in
22 opposite of the NPA.

23 The second part is there are many young ladies, and
24 this perhaps he can use this to his great advantage, who are
25 humiliated about this entire situation. Some of them won't

1 come forward.

2 We were appointed by Judge Davis as a Special Master
3 to represent these young ladies. And some of them don't even
4 want to file suit. They don't even want to be known as Jane
5 Doe 103. They don't want any of the risks for these motions
6 that are pending.

7 And part of the agreement was that if we represented
8 them and they settle, Mr. Epstein would pay our fees. And he
9 has written us as of yesterday that he is under no obligation
10 to pay our fees on settling cases.

11 Now, those two matters, I believe, may be breaches.
12 But I am not asking this Court at this time to do anything
13 about them. Nor am I telling the Government, I'm not running
14 to the Government and saying indict him because I want you to
15 pressure him to do what he agreed to.

16 I'm a third-party beneficiary for that agreement, and
17 I may move to enforce certain parts of it. But as far as the
18 issue of staying the litigation, that is the exact opposite of
19 the intent and the letter of the NPA. The purpose of the NPA
20 was so that these 34 young ladies, these victims who have been
21 severely traumatized, may move on with their lives.

22 And to stay this action would be the exact opposite of
23 the purpose of that agreement and would be horrible
24 psychologically for all of my clients.

25 THE COURT: Mr. Josefsberg, I understand your

1 position. And I don't want to argue the merits of whether a
2 stay should or should not be granted.

3 I'm just trying to understand what the ground rules
4 are going to be if I grant a stay or if I deny a stay. And
5 I've already denied a stay once. I have to decide this current
6 motion, and I just want to know what is going to happen if I
7 deny the stay in terms of Mr. Epstein's exposure under the
8 non-prosecution agreement. That's my concern.

9 So if you're telling me that you're not going to urge
10 the United States, on behalf of any of your clients, to take
11 the position that he's breached the agreement because he's
12 taking depositions, because he's pursuing discovery, because
13 he's conducting investigations that anyone in any other type of
14 civil litigation might conduct with respect to plaintiffs that
15 are pursuing claims against a defendant, that those typical
16 types of actions, in your judgment, are not breaches of the
17 agreement and that he can go forward and defend the case as any
18 other defendant could defend, and you're not going to run to
19 the United States and say, hey, he's breaching the agreement by
20 taking depositions and he's breaching the agreement by issuing
21 subpoenas to third parties in order to gather information
22 necessary to defend, then I don't have a problem. But if he's
23 going to be accused of breaching the agreement because he sends
24 out a notice of deposition of one of your clients, how is he
25 supposed to defend the case?

1 MR. JOSEFSBERG: Your Honor, you're totally correct.
2 He can depose my client. That's not a problem. But the
3 problem is that these are not typical clients and this is not a
4 typical case. He has written in his pleadings that he wants to
5 publish the names of these girls in the newspapers so that
6 other people may come forward to discuss their sexual
7 activities with these different plaintiffs. That's not your
8 typical case. But are rulings that you'll make in this case,
9 and they're not part of the NPA.

10 As far as my going to the Government is concerned, I
11 find it very uncomfortable for me to use the Government to try
12 to pursue my financial interest in litigation. And I know that
13 Mr. Epstein and his counsel will make much ado about it. So I
14 am not going to be running there.

15 However, if they start taking depositions regarding
16 liability, I will consider that to be a breach because they're
17 supposed to have admitted liability.

18 THE COURT: But, again, I don't have the agreement and
19 I don't remember reading the agreement. But what I'm being
20 told is the part of the agreement that admits liability is only
21 as to a 2255 claim, and there are numerous other personal
22 injury tort claims other than 2255 claims.

23 And there's a limit of damages on the 2255 claim, as I
24 understand it, but I presume that all the plaintiffs are going
25 to seek more than the limited or capped amount of damages in

1 the non-prosecution agreement as to the other claims.

2 And so why aren't they entitled to defend and limit
3 the amount of damages that your client is seeking on the
4 non-2255 tort claims?

5 MR. JOSEFSBERG: Your Honor, you are correct. On
6 non-2255 tort claims, they are permitted to do the defense,
7 whatever is appropriate.

8 My cases are pure 2255 on which liability under the
9 agreement is supposed to be admitted. Now, as to the amount of
10 damages, there are legal issues that will be before you and
11 under the C.M.A. cases that are getting before you, as to
12 whether it is 50 or 150. That has nothing to do with the NPA.

13 There are legal issues that are before you as to
14 whether it is per statute, per count or per incident or per
15 plaintiff. Those have nothing to do with the NPA. There is no
16 amount in NPA. Those will be resolved.

17 Anyone who has brought a case that is outside of 2255,
18 the defense is permitted to contest liability under the NPA.
19 That's no violation.

20 Under the NPA if someone brought a case under just
21 2255, Mr. Epstein, if he is to keep his word, cannot contest
22 liability. And there would no need to stay this. Because it
23 is a self-fulfilling agreement. He can contest liability. And
24 as far as the amount of damages, anyone that wants to go over
25 the statutory minimums, of course, he can contest that in any

1 way that is proper under the Rules of Evidence and your
2 rulings. The NPA has no limitation on his contesting damages
3 above the minimum statutory amount.

4 The only thing that he has done is in his actions of
5 refusing to pay for settling defendants, and in his saying that
6 he has no liability under 2255, those appear to be contrary to
7 what's in the NPA.

8 But I'm not in any position right now to claim a
9 breach, and I don't know whether I'd be claiming a breach or
10 enforcing it in front of you, suing him for fees, asking you to
11 have him admit liability, or complaining to the Government.
12 And that's why I'm not that helpful in this situation because I
13 think it's the Government's role.

14 But I do not waive the right to be a third-party
15 beneficiary because pursuant to my appointment, which was
16 agreed to by Mr. Epstein, I and my clients have certain rights,
17 and we want to enforce them.

18 But his defending this lawsuit will not in any way be
19 a violation. His getting this lawsuit stayed would be a
20 violation of the spirit of taking care of these girls, and
21 there would be other issues. Like if there is a stay, Your
22 Honor, would he be posting a bond?

23 THE COURT: We don't need to talk about those issues.
24 That's not my concern.

25 MR. JOSEFSBERG: I agree, Your Honor, we don't.

1 THE COURT: That's not my concern. So, again, I just
2 want to make sure that if the cases go forward and if
3 Mr. Epstein defends the case as someone ordinarily would defend
4 a case that's being prosecuted against him or her, that that in
5 and of itself is not going to cause him to be subject to
6 criminal prosecution.

7 MR. JOSEFSBERG: I agree, Your Honor.

8 THE COURT: Any other plaintiff's counsel want to
9 chime in?

10 MR. WILLITS: Richard Willits on behalf of C.M.A.. I
11 would join, to weigh in on what Mr. Josefsberg said.

12 MR. JOSEFSBERG: Your Honor, I could not hear.

13 THE COURT: We'll get him to a microphone.
14 Mr. Willits is speaking.

15 MR. WILLITS: On behalf of my client, C.M.A., we join
16 in what Mr. Josefsberg said, and we also want to point out
17 something to the Court.

18 First, we want to make a representation to the Court,
19 we have no intention of complaining to the U.S. Attorney's
20 Office, never had that intention, don't have that intention in
21 the future, but, of course, subject to what occurs in the
22 future.

23 I want to point out to the Court that Mr. Epstein went
24 into this situation with his eyes wide open, represented by
25 counsel, knowing that civil suits had to be coming. If he

1 didn't know it, his lawyers knew it.

2 He appears to be having second thoughts now about he
3 could have negotiated this way or he could have negotiated that
4 way with the U.S. Attorney's Office. And they want to impose
5 their second thoughts on the innocent plaintiffs. We don't
6 think that's fair. We think it's in the nature of invited
7 error, if there was any error whatsoever.

8 Thank you.

9 THE COURT: You agree he should be able to take the
10 ordinary steps that a defendant in a civil action can take and
11 not be concerned about having to be prosecuted?

12 MR. WILLITS: Of course. And we say the same thing
13 Mr. Josefsberg said. It's all subject to your rulings and the
14 direction of this Court as to what is proper and what is not
15 proper. And we're prepared to abide by the rulings of this
16 Court, and we have no intention of running to the State's
17 Attorney.

18 THE COURT: The U.S. Attorney?

19 MR. WILLITS: I'm sorry. The U.S. Attorney.

20 THE COURT: Mr. Garcia.

21 MR. GARCIA: Thank you, Your Honor.

22 If I may briefly, I think perhaps defense counsel
23 forgot about this, but on pages 17 and 19 of my memorandum of
24 law in opposition to the motion to dismiss, I did make
25 reference to the non-prosecution agreement, and I did say that

1 the contesting of the jurisdiction of this Court was a
2 potential breach of the non-prosecution agreement.

3 So my client happens to have, and they have filed with
4 the Court a copy of her state court complaint, given the fact
5 that the non-prosecution agreement limits the non-contesting of
6 jurisdiction to claims exclusively brought under the federal
7 statute.

8 I'm going to go ahead and withdraw those contentions
9 on pages 17 and 19 of my memo of law because it doesn't apply
10 to my case. So to the extent that I raised this issue with
11 defense counsel and the Court, I'm going to withdraw that
12 aspect of it.

13 THE COURT: Can you file something in writing on that
14 point with the Court?

15 MR. GARCIA: Yes.

16 THE COURT: What do you say about this issue that
17 we're here on today?

18 MR. GARCIA: I think that the problem that I have with
19 it is that this non-prosecution agreement is being used by
20 defense counsel for the exact opposite purpose that it was
21 intended. My perception of this thing, and I wasn't around, is
22 that Mr. Epstein essentially bought his way out of a criminal
23 prosecution, which is wonderful for the victims in a way, and
24 wonderful for him, too.

25 Now he's trying to use the non-prosecution agreement

1 as a shield against the plaintiffs that he was supposed to make
2 restitution for.

3 And, certainly, he can take my client's depo. He's
4 done extensive discovery in the state court case -- very
5 intrusive, I might add. And we don't care, because we can win
6 this case with the prosecution agreement or without the
7 prosecution agreement. We are ready to go forward.

8 THE COURT: You're not going to assert to the United
9 States Government that what he's doing in defending the case is
10 a violation for which he should be further prosecuted?

11 MR. GARCIA: Absolutely not.

12 THE COURT: Anyone else for the plaintiffs?

13 MR. HOROWITZ: Judge, Adam Horowitz, counsel for
14 plaintiffs Jane Doe 2 through 7.

15 I just wanted to address a point that I think you've
16 articulated it. I just want to make sure it's crystal clear,
17 which is that we can't paint a broad brush for all of the
18 cases.

19 The provision relating to Mr. Epstein being unable to
20 contest liability pertains only to those plaintiffs who have
21 chosen as their sole remedy the federal statute. My clients,
22 Jane Doe 2 through 7, have elected to bring additional causes
23 of action, and it's for that reason we were silent when you
24 said does anyone here find Mr. Epstein to be in breach of the
25 non-prosecution agreement. That provision, as we understand

1 it, it doesn't relate to our clients.

2 THE COURT: Okay. But, again, you're in agreement
3 with everyone else so far that's spoken on behalf of a
4 plaintiff that defending the case in the normal course of
5 conducting discovery and filing motions would not be a breach?

6 MR. HOROWITZ: Subject to your rulings, of course,
7 yes.

8 THE COURT: Thank you.

9 Anyone else have anything to say from the plaintiffs?

10 Ms. [REDACTED], if you would be so kind as to maybe
11 help us out. I appreciate the fact that you're here, and I
12 know you're not a party to these cases and under no obligation
13 to respond to my inquiries. But as I indicated, it would be
14 helpful for me to understand the Government's position.

15 MS. [REDACTED] Thank you, Your Honor. And we, of
16 course, are always happy to try to help the Court as much as
17 possible. But we are not a party to any of these lawsuits, and
18 in some ways we are at a disadvantage because we don't have
19 access. My access is limited to what's on Pacer. So I don't
20 really know what positions Mr. Epstein may have taken either in
21 correspondence or in discovery responses that aren't filed in
22 the case file.

23 But your first order was really just what do you think
24 about a stay, and then the second order related to this hearing
25 and asked a much more specific question, which is whether we

1 believe that Mr. Epstein's defense was a breach of the
2 agreement.

3 And I've tried to review as many of the pleadings as
4 possible. As you know, they're extremely voluminous. And I
5 haven't been through all of them. But we do believe that there
6 has been a breach in the filing that Mr. Josefsberg referred
7 to, and contrary to Mr. Critton, we do understand that we have
8 an obligation to provide notice, and we are providing notice to
9 Mr. Epstein today.

10 The pleading that we found to be in breach -- the
11 non-prosecution agreement, sought to do one thing, which was to
12 place the victims in the same position they would have been if
13 Mr. Epstein had been convicted of the federal offenses for
14 which he was investigated.

15 And that if he had been federally prosecuted and
16 convicted, the victims would have been entitled to restitution,
17 regardless of how long ago the crimes were committed,
18 regardless of how old they were at the time, and how old they
19 are today, or at the time of the conviction.

20 And it also would have made them eligible for damages
21 under 2255.

22 And so our idea was, our hope was that we could set up
23 a system that would allow these victims to get that restitution
24 without having to go through what civil litigation will expose
25 them to.

1 You have a number of girls who were very hesitant
2 about even speaking to authorities about this because of the
3 trauma that they have suffered and about the embarrassment that
4 they were afraid would be brought upon themselves and upon
5 their families.

6 So we did through the non-prosecution agreement tried
7 to protect their rights while also protecting their privacy.
8 So, pursuant to the non-prosecution agreement -- on the other
9 hand, we weren't trying to hand them a jackpot or a key to a
10 bank. It was solely to sort of put them in that same position.

11 So we developed this language that said if -- that
12 provided for an attorney to represent them. Most of the
13 victims, as you know from the pleadings, come from not wealthy
14 circumstances, may not have known any attorneys who would be in
15 a position to help them.

16 So we went through the Special Master procedure that
17 resulted in the appointment of Mr. Josefsberg, and the goal was
18 that they would be able to try to negotiate with Mr. Epstein
19 for a fair amount of restitution/damages. And if Mr. Epstein
20 took the position, which apparently he has, which is that the
21 \$50,000 or \$150,000 floor under 2255 also would be a cap. That
22 if they were to proceed to file suit in Federal Court to get
23 fair damages under 2255, Mr. Epstein would admit liability, but
24 he, of course, could fight the damages portion, which means
25 that, of course, he would be entitled to depositions; of

1 course, he would be entitled to take discovery, and we don't
2 believe that any of that violates the non-prosecution
3 agreement.

4 The issue with the pleading that he filed, the motion
5 to dismiss the case, I believe it's Jane Doe 101, represented
6 by Mr. Josefsberg, is that that is a case that was filed
7 exclusively under 18 U.S.C., Section 2255. She met that
8 requirement. Mr. Epstein is moving to dismiss it, not on the
9 basis of damages, he is saying that he cannot be held liable
10 under 2255 because he was not convicted of an offense.

11 The reason why he was not convicted of an offense is
12 because he entered into the non-prosecution agreement. So that
13 we do believe is a breach.

14 The issue really that was raised in the motion to stay
15 and that I addressed in our response to the motion to stay is
16 that Mr. Epstein's -- Mr. Epstein wants to stay the litigation
17 in order to leave, in order to sort of attack the cases of the
18 victims whether they are fully within the non-prosecution or
19 not, non-prosecution agreement or not, and leave the Government
20 without a remedy if he does, in fact, breach those terms. And
21 that is why we opposed the stay.

22 THE COURT: I'm not sure what you mean by that last
23 statement.

24 MS. [REDACTED] Well, because this issue related to
25 the motion to dismiss on Mr. Josefsberg's client came up after

1 we had filed that response. And what we said in the response
2 to the motion to stay is that the reason why he wants to stay
3 the litigation is so that the non-prosecution agreement
4 terminates based on a period of time, as he puts it. And then
5 afterwards he would be able to come in here and make all of
6 these arguments that clearly violate the non-prosecution
7 agreement but we would be without remedy.

8 THE COURT: But you're not taking the position that
9 other than possibly doing something in litigation which is a
10 violation of an express provision of the non-prosecution
11 agreement, any other discovery, motion practice, investigations
12 that someone would ordinarily do in the course of defending a
13 civil case would constitute a violation of the agreement?

14 MS. [REDACTED] No, Your Honor. I mean, civil
15 litigation is civil litigation, and being able to take
16 discovery is part of what civil litigation is about. And while
17 there may be, for example, if someone were to try to subpoena
18 the Government, we would obviously resist under statutory
19 reasons, all that sort of stuff. But, no, Mr. Epstein is
20 entitled to take the deposition of a plaintiff and to subpoena
21 records, etc.

22 THE COURT: And even if he seeks discovery from a
23 Government agency, you have the right to resist it under the
24 rules of procedure but that would not constitute a violation,
25 again unless there's a provision in the prosecution agreement

1 that says I can't do this?

2 MS. [REDACTED] Correct.

3 THE COURT: That's your position?

4 MS. [REDACTED] Yes.

5 THE COURT: Thank you.

6 MS. [REDACTED] Thank you, Your Honor.

7 THE COURT: Mr. Critton, did you want to add anything?

8 MR. CRITTON: Yes, sir. Just a few responses to some
9 of the issues that have been raised.

10 The most glaring, at least from our perspective, is
11 both Mr. Josefsberg's comments that he believes that there's a
12 violation of the NPA as well as Ms. [REDACTED] with regard to
13 Jane Doe 101.

14 Mr. Josefsberg, while he was the attorney rep who was
15 selected by Judge Davis to represent a number of individuals,
16 alleged victims that may have been on the list, he represents
17 many of them. And the type of response that was filed in 101
18 would probably be very similar to what we will file if he
19 files -- and he filed 102 as well. But if he files 103, 104
20 and 105, or whatever number he files, we may well take that
21 same legal position in our motions and in our response or in
22 reply.

23 And what we've been, in essence, told today is we
24 consider that to be a violation of the NPA under the
25 circumstances.

1 102 is a perfect example that he filed is, we have
2 e-mails going back and forth between the Government and my
3 clients' attorneys at the time that suggested that 102 probably
4 doesn't even fit within the statute of limitations.

5 So under Mr. Josefsberg's argument is as well, we've
6 only brought a 2255 claim. We don't care whether she's within
7 or is outside the statute of limitations. Because she was on
8 the list and under the circumstances, he has to admit
9 liability, which we contest is under that set of circumstances
10 you're stuck with it. You can fight damages if you can, but
11 she's a real person and you can't raise statute of limitations.

12 The other point that kind of strikes out is there's
13 probably a difference. And I'm happy to provide a copy of the
14 NPA or a redacted portion of the NPA which deals with the civil
15 issues, which are paragraphs 7, 8, 9 and 10, and the entire
16 addenda in camera for the Court to look at, if plaintiff's
17 counsel and the Government, I guess, really, because they're
18 not a party, is if they have no objection because they all have
19 access based on a prior court order to the non-prosecution
20 agreement.

21 So I'm happy to provide that to the Court today and
22 show it to counsel so that the Court can review that.

23 But our position with regard to the 2255 claims is
24 that -- there were two types of claims that could be filed, one
25 was consensual litigation, the second was contested litigation.

1 And under the consensual, in essence, which Mr. Epstein did, is
2 he's offered \$50,000 of the statutory minimum for that time
3 period to all of those individuals.

4 THE COURT: Can I interrupt you a second?

5 MR. CRITTON: Yes, sir.

6 THE COURT: I'm not here, and I don't believe it's my
7 role to decide whether or not there is or is not a breach of
8 the agreement. I'm just trying to understand what the
9 Government's position is regarding your defending these cases.

10 Now, I'm just saying this as an example. If, for
11 example, in the non-prosecution agreement there was a provision
12 that said explicitly: Jeffrey Epstein shall not move to
13 dismiss any claim brought under 2255 by any victim no matter
14 how long ago the allegations or the acts took place, period.

15 If that was in the agreement and you filed a motion to
16 dismiss by someone who brought a claim, it might sound like it
17 might be a violation.

18 MR. CRITTON: I agree.

19 THE COURT: So you would know that when you filed your
20 motion because it was right there for you to read.

21 And so to stay the case because I want to do something
22 that the contract expressly prohibits me from doing, so stay
23 the case until the agreement expires so then I can do something
24 that the agreement said I couldn't do so you won't be in fear
25 of prosecuting, I'm not sure that that is what I'm concerned

1 about.

2 I'm concerned about discovery, investigation, motion
3 practice, that's not prohibited by a provision of the
4 agreement. If there's something that's prohibited by the
5 agreement that you, knowing what the agreement says, go ahead
6 and do, anyway, I guess that's a risk you're going to have to
7 take. If there's a legitimate dispute about it, I guess some
8 arbiter is going to decide whether it's a breach or not.

9 But, again, that's something you and Mr. Burman,
10 Mr. Goldberger, and you are all very good lawyers, and he's got
11 a whole list of lawyers representing him, and you've got the
12 agreement and you're going to make legal decisions on how to
13 proceed, and you're going to have to go and make your own
14 decisions.

15 I'm concerned about things that aren't in the
16 agreement, that aren't covered, that you're going to be accused
17 of violating because, again, you take depositions, you send out
18 subpoenas, you file motions that are not prohibited by the
19 agreement. And that's what I'm concerned about.

20 MR. CRITTON: And I understand that, Your Honor.

21 But at the same time, it's as if the lawyers and the
22 clients, based upon our interpretation of the agreement, and,
23 believe me, we would not have filed 101, the motion to dismiss,
24 but for believing that there was a good faith basis to do that
25 under the circumstances.

1 And now, in essence, we're being accused not only by
2 -- not accused, but it's been suggested that there's a breach
3 of the NPA, not only by Mr. Josefsberg on behalf of 101, but as
4 well Ms. [REDACTED] on behalf of the United States.

5 That's the perfect example. They're basically saying
6 we think you violated. We may send you notice under the
7 circumstances. So does that mean that on 101 we have to back
8 off of it because we think in good faith that it's a motion and
9 is that something that this Court ultimately will rule?

10 THE COURT: I don't know that I'm the one who is going
11 to make that decision. Again, that's not the kind of thing
12 that I was concerned about. I was more concerned about the
13 normal, ordinary course of conducting and defending a case that
14 would not otherwise expressly be covered under the agreement,
15 that you're going to then have someone say, ah, he's sent a
16 notice of deposition, he's harassing the plaintiffs. I don't
17 know if there's a no contact provision in the agreement or no
18 harassment type of provision in the agreement. Ah, this is a
19 breach because you sent discovery, or he's issuing subpoenas to
20 third parties trying to find out about these victims'
21 backgrounds, he's breaching the agreement.

22 Those are the kind of things that I was worried about.

23 MR. CRITTON: The concern that we have is as part of
24 doing this general civil litigation, it's not just the
25 discovery process. And I understand the issues that the Court

1 has raised.

2 But part of it is that often cases are disposed of
3 either on a summary basis or certainly legal issues that come
4 before the Court during the course of the case, just like in a
5 criminal case. That's clearly part of the, I'd say the defense
6 of the case under the circumstances; and if, in fact, an
7 individual can't legally bring a cause of action for certain
8 reasons, such as has been suggested in 101, and may be
9 suggested in 102 when that pleading is filed, that certainly is
10 a position that puts my client at risk.

11 As another example that I use with C.M.A., that they
12 filed this 30-count complaint. Now, they have the state court
13 claims as well. But they, in essence, have said they filed
14 another pleading with the Court that says depending on what the
15 Court rules, in essence, on whether we can file multiple claims
16 or one cause of action with multiple violations, we may dump
17 the state court claims and, therefore, we'll just ride along on
18 that. That's a very different --

19 Mr. Epstein would never have entered into, nor would
20 his attorneys have allowed him to enter into that agreement
21 under those circumstances where he had this unlimited
22 liability. That clearly was never envisioned by any of the
23 defendants -- by the defendant or any of his lawyers under the
24 circumstances.

25 And if that's claimed to be a violation, either by the

1 attorneys; i.e., he's not recapitulating on liability under the
2 2255, and that's all we have now. That's our exclusive remedy.

3 And the Government says, yeah, that's right, that's a
4 violation of the NPA. It again chills us from moving forward,
5 filing the necessary motion papers and taking legal positions
6 that may put my client at risk for violating the NPA and then
7 creating the irreparable harm of, after having been in jail,
8 after having pled guilty to the state court counts, after
9 registering on release as a sex offender, he's complied and
10 done everything, taken extraordinary efforts to comply with the
11 NPA, puts him at substantial risk. And that's what our worry
12 is moving forward.

13 MR. JOSEFSBERG: Your Honor, may I be heard. May I
14 make three comments? It will take less than a minute.

15 THE COURT: Yes, sir.

16 MR. JOSEFSBERG: Mr. Critton refers to the alleged
17 victims. I want you to know that our position is that pursuant
18 to the NPA they're not alleged victims. They are actual, real
19 victims, admitted victims.

20 Secondly, he argues about the statute of limitations
21 on 102. I know that you don't want to hear about that, and I'm
22 not going to comment about it. But please don't take our lack
23 of argument about this as being we agree with anything.

24 Last and most important, we totally agree with
25 Mr. Critton in his suggestion that he hand you a copy of the

1 NPA. I think that many of the questions you asked will be
2 answered when you read the NPA, and I think it's very unfair of
3 everyone who is sitting in front of you who have the NPA to be
4 discussing with you whether it's being breached, whether there
5 should be a stay when you're not that familiar with it.

6 If we would give you a copy of it, I think it would be
7 much more helpful in making your ruling.

8 THE COURT: Maybe Judge Colvat will resolve this issue
9 for me.

10 MR. JOSEFSBERG: Even if he doesn't, Your Honor, I
11 believe we are allowed to show it to you.

12 THE COURT: I'll tell you what: I'll wait for Judge
13 Colvat to rule, and then if he rules that it should remain
14 sealed, then I'll consider whether or not I want to have it
15 submitted to me in camera.

16 Anything else, Mr. Josefsberg?

17 MR. JOSEFSBERG: No. I thank you on behalf of myself
18 and the other counsel on the phone for permitting us to appear
19 by phone.

20 THE COURT: All right. Anyone else have anything they
21 want to add?

22 MR. EDWARDS: Brad Edwards on behalf of Jane Doe.

23 I only had one issue here, and when I read your motion
24 that you wanted to hear on the narrow issue of just defense in
25 the civil actions filed against him violates the

1 non-prosecution agreement, I was expecting that we were going
2 to hear something from the Government similar to the affidavit
3 that was filed by Mr. Epstein's attorneys wherein he indicates
4 as of the day of this affidavit attached to the motion to stay,
5 the U.S. Attorney's Office has taken the position that Epstein
6 has breached the non-prosecution agreement and it names
7 specifically investigation by Epstein of this plaintiff and
8 other plaintiffs, Epstein's contesting damages in this action.
9 Epstein, or his legal representatives, making statements to the
10 press. And we didn't hear any of those things.

11 So that's what I was expecting that the U.S.
12 Attorney's Office was going to expound on and say, yes, we've
13 made some communications to Epstein. He's violating.

14 What we're hearing right now, today, just so that I'm
15 clear, and I think the Court is clear now, is that the
16 non-prosecution agreement is what it is. There have been no
17 violations, but for maybe what Mr. Josefsberg brought up.

18 But there are very few restrictions on Mr. Epstein.
19 He went into this eyes wide open. And whether or not I agree
20 with the agreement, how it came to be in the first place, is
21 neither here nor there.

22 But there have been no violations or breaches up to
23 this point. And his affidavit that was filed, I'm just
24 troubled by where it even came from. I mean, it's making
25 specific allegations that the U.S. Attorney's Office is

1 threatening a breach, and this is part of the motion to stay,
2 which we're all battling here.

3 So I just wanted to indicate to the Court or remind
4 the Court that there have been specific allegations made, the
5 United States Attorney's Office is making these allegations of
6 breach, which we haven't heard any of the evidence of.

7 Thank you.

8 THE COURT: All right.

9 Ms. [REDACTED] did you want to respond to that
10 suggestion that there were other allegations of breach besides
11 the one that you've just mentioned today?

12 MS. [REDACTED] No, Your Honor.

13 THE COURT: Thank you. I appreciate your giving me
14 the information, which I think has been very helpful today, and
15 I'll try and get an order out as soon as possible.

16 [Court adjourned at 11:10 a.m.].

17 C E R T I F I C A T E

18 I hereby certify that the foregoing is an accurate
19 transcription of proceedings in the above-entitled matter.

20

s/Larry Herr

21

DATE

22

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IN THE DISTRICT COURT OF
APPEAL OF THE STATE OF
FLORIDA, FOURTH DISTRICT

CASE NO: 4D09-2554
L.T. No. 2008 CF 9381

JEFFREY EPSTEIN,

Petitioner,

STATE OF FLORIDA,
E.W., THE PALM BEACH POST,
B.B,

Respondents.

**E.W.'S SEALED REQUEST TO DISMISS THE PETITION FOR
LACK OF JURISDICTION**

Respondent, E.W., would show the Court as follows:

1. This Court lacks jurisdiction to hear this petition.

The order under review is a non-final order for which no appeal is provided by Rule 9.130. A non-final order for which no appeal is provided by Rule 9.130 is reviewable by petition for certiorari only in limited circumstances. The order must depart from the essential requirements of law and thus cause material injury to the petitioner throughout the remainder of the proceedings below, effectively leaving no adequate remedy on appeal.

Allstate Ins. Co. ■ *Langston*, 655 So.2d 91, 94 (Fla. 1995); *Barad & Co.* ■

McGuire, 670 So.2d 153 (Fla. 4th DCA 1996); *see, Menke* ■ *Broward School Bd*, 916 So.2d 8 (Fla. 4th DCA 2005).

The requirement of irreparable harm is jurisdictional. *Allstate; Barad & Co.* A petitioner's failure to demonstrate the satisfaction of this jurisdictional element should result in dismissal of a petition for writ of certiorari. *Barad & Co.*

As shown below, petitioner fails to meet this jurisdictional threshold.

2. Disclosure of the NPA will not cause petitioner irreparable harm.

a. There is nothing in the NPA that is confidential and disclosure will not cause petitioner irreparable harm (“there’s no cat in the bag”).

Petitioner does not cite a single term, provision, sentence or word in the NPA¹ that is confidential. There are no “confidentiality provisions” in the NPA, contrary to petitioner’s misleading assertions (i.e., petition at page 10). There is not a single detail about this sex offender’s plea deal with the U.S. Attorney or the state attorney that should be hidden from the public.

A page-by-page review of the NPA demonstrates this. The first page discusses that local law enforcement have conducted investigations of

¹ The undersigned attorneys were given a copy of the NPA through the federal proceedings before Judge Marra (see E.W.’s response to the petition filed herewith), but, inexplicably, undersigned was not provided a copy of the Addendum. We have never seen it and do not know its contents.

petitioner; that he was charged by indictment with solicitation of prostitution; that the U.S. Attorney and FBI have conducted their own investigation of his crimes against the United States from 2001-2007 including crimes for inducing minor females to engage in prostitution; conspiring to use interstate commerce to engage in illicit sexual conduct; using interstate commerce to induce *minor* females to engage in prostitution; traveling in interstate commerce to engage in illicit sexual conduct with minor females; recruiting *minors* to engage in a commercial sexual act.

The second page provides that petitioner wishes to resolve globally his state and federal charges; that the interests of the state, the United States and petitioner would be served by so doing; that prosecution by the U.S. Attorney shall be deferred in favor of prosecution by the state provided petitioner abides by the agreement; that should petitioner violate any conditions of the agreement he may be prosecuted for any offense; that if petitioner fulfills the terms of the agreement, the U.S. Attorney will not prosecute him for any offense.

The third page discusses that he will plead guilty to state charges of solicitation of prostitution and solicitation of *minors* to engage in prostitution and be registered as a sex offender; he will agree to a county jail sentence of 18 months for the two charges followed by 12 months

community control; the state judge must approve the sentence; the agreement does not preclude petitioner and the state attorney from agreeing to recommend additional charges or additional terms of probation or incarceration; petitioner waives his rights; petitioner shall provide the U.S. Attorney with copies of his agreements with the state attorney.

Page four provides that the United States shall provide petitioner with a list of victims; the United States shall select an attorney to represent the victims; if any victims files suit based on federal claims petitioner will not contest them; he is not admitting liability by signing this agreement; that he will use his best efforts to plead guilty by a certain date.

Page five provides that he will not be treated differently than any other offender as to county jail gain time; that the parties anticipate this agreement will not be made part of any public record but if there is a Freedom of information Act Request or compulsory process on the United States for this agreement, the U.S. will give petitioner notice **before disclosing the agreement**; that the U.S. Attorney cannot guarantee what the state attorney does; that the United States will not prosecute potential co-conspirators; that ongoing grand jury proceedings will be halted.

Page six provides there is consideration for the NPA and a breach allows the United States to elect to terminate it; that petitioner waives certain rights.

Finally, page seven provides that petitioner has read the agreement and understands it.

Where is there a single confidential term, provision, sentence or word in the NPA the disclosure of which will cause petitioner irreparable harm? The answer is there is none.

Will it cause petitioner irreparable harm for the public to learn that he and the U.S. Attorney agreed he will be sentenced in state court to a mere *18 months county jail* time (in his home county, not a prison, with all the usual gain time and work release benefits not available in the state prison system, so he serves about 60% of the sentence) plus 12 months *non-sexual offender* community control, for solicitation of a minor to engage in prostitution, a *second degree felony punishable by up to 15 years in prison*, and felony solicitation of prostitution, a *third degree felony punishable by up to 5 years in prison*?

Will it cause petitioner irreparable harm for the public to learn that if petitioner fulfills the terms of the agreement, the U.S. Attorney will not

prosecute him for a single federal crime he committed against multiple minor female victims?

Will it cause petitioner irreparable harm for the public to learn the state attorney will only prosecute him for just two of his crimes involving only just two of his minor female victims and that he does not face any further state prosecution for all his other crimes against the many more minor female victims identified by the U.S. Attorney?

Will it cause petitioner irreparable harm for the public to know that the other participants in his criminal enterprise for procuring minor females to engage in prostitution, co-conspirators [REDACTED] [REDACTED] will not be prosecuted at all?

Will it cause petitioner irreparable harm for the public to learn that an attorney will be appointed to represent his other minor female victims in civil lawsuits; that, if they bring only a single specified federal cause of action, he will not contest, but not admit, liability, but if they bring other causes of action such as battery or intentional infliction of emotional distress, he can defend in any manner he chooses?

Will it cause petitioner irreparable harm for the public to know that the U.S. Attorney and the state attorney have utterly compromised their roles

as prosecutors and protectors of the public safety by entering into this sweetheart deal with petitioner?

As in the old Wendy's commercial, "Where's the beef?"

b. The parties to the NPA did not agree it would be confidential; in fact, the United States agreed the NPA would be publicly disclosed if a Freedom of Information Act Request or compulsory process were made to disclose it.

There is nothing in the record to support petitioner's assertion that the parties agreed to confidentiality. Petitioner has not proven by any evidence extrinsic to the NPA that it was intended to be confidential.

The wording of the NPA, moreover, does not show it was intended by both parties to be confidential. The NPA on its face does not state anywhere that it is confidential. The word "confidential" does not appear in it. There is not a single term, provision, sentence or word in it where both parties affirmatively agree to keep it confidential. The term "confidential" essentially means that something is "meant to be kept secret." Black's law dictionary (8th ed. 2004). The NPA does not contain an expression of this intent. In fact, the parties to it expressly agree to the contrary: that the United States **will disclose** the NPA if a Freedom of Information Act Request or compulsory process is made to disclose it:

The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein **before making that disclosure.**

(NPA, paragraph 13(emphasis added).)

The first sentence of the above quote does no more than state an expectation by both sides that they do not anticipate the document being made part of a public record, i.e., not filed in federal court. At most it states merely an intent that neither side will take affirmative steps to make place it in a public record. But that is not a provision that the document is confidential or that it will be kept confidential. In the same paragraph, the United States agrees **to disclose** the NPA if a Freedom of Information Act Request or compulsory process for the document is made.

In fact, with all the hearings held in state court to the present on this issue, the United States, which was always noticed, has not once intervened in state court to request that the document remain sealed. A representative of the U.S. Attorney's office has not even appeared at any of the hearings before the trial judge below on this issue. Moreover, at the plea colloquy, representatives of the United States were present and did not object to the

terms of the agreement being discussed on the record or being placed in the state court file (see below).²

Also, the text of the NPA quote above (par. 13) shows that petitioner's arguments based on the supremacy clause and the doctrine of secrecy of grand jury proceedings are wholly without merit. Can these arguments have any conceivable validity if the U.S. Attorney agreed to publicly disclose the NPA if there were a Freedom of Information Act Request or compulsory service of process? There should be no serious consideration given to petitioner's contention that the U.S. Attorney intended to look to **petitioner** to protect the rights of the United States under the supremacy clause or to protect the sanctity of the doctrine of federal grand jury secrecy. This is but another smoke-screen.

c. Petitioner himself and the state prosecutor already publicly disclosed the contents of the NPA (“the cat’s already out of the bag”).

At the plea colloquy (A-8), with representatives of the U.S. Attorney present, petitioner's attorney and the prosecutor disclosed on the record, in public, the essential terms of the NPA. After the trial judge cautioned

² It was noted on the record that representatives of the U.S. Attorney were present in court. A-8, page 39, lines 22-23.

counsel that any sidebar conversation would be on the record, the following exchange occurred:

MR. GOLDBERGER [petitioner's counsel]: The reason why I asked to come sidebar is **there is a nonprosecution agreement with the United States Attorney's office that triggers as a result of the plea agreement. In other words, they have signed off and said they will not prosecute Mr. Epstein in the Southern District of Florida for any offense upon his successful [sic] taking of this plea today.** That is a confidential document that the parties have agreed to. I wanted to tell the court.

THE COURT: I understand, that would also be invalidated should he violate community control?

MR. GOLDBERGER: Absolutely. That nonprosecution agreement –

MS. BELOHLAVEK [the state prosecutor]: They spell all that out.

THE COURT: Mr. Epstein needs to come closer.

Mr. Epstein, your attorney has told me that in addition to everything, we talked about another inducement, shall we say, to your taking this plea is that the U.S. Attorney for the Southern District of the State of Florida, federal prosecutor, has agreed to a nonprosecution agreement with you, meaning that if you successfully complete probation and do everything you're supposed to, they have, have agreed not to prosecute you federally, did you understand that?

THE PETITIONER: Yes, ma'am.

(A-8, pages 38-39)(emphasis added).

We can see from the page-by-page review of the NPA (section 2a. above) that the other provisions of the NPA are incidental to the highlighted quotations. The substance of the NPA is the publicly disclosed provision that the U.S. Attorney will not prosecute petitioner for any federal offense

upon his pleading guilty to the two state crimes and agreeing to the sentence discussed in the plea colloquy.

CONCLUSION

For the reasons stated above, it is respectfully requested that the petition for certiorari be dismissed for lack of jurisdiction.

I HEREBY CERTIFY that a copy of the foregoing has been served by mail on the parties listed below this 13 day of July, 2009.

I HEREBY CERTIFY that the foregoing is submitted in Times New Roman 14-point font and complies with the font requirement of Rule 9.100.

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**IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA**

CASE NO. 4D09-2554

JEFFREY EPSTEIN,

Petitioner,

vs.

**STATE OF FLORIDA, PALM BEACH NEWSPAPERS, INC.,
E.W., AND B.B.,**

Respondents.

**SUPPLEMENTAL APPENDIX TO
PALM BEACH NEWSPAPERS, INC., d/b/a THE PALM BEACH POST'S
RESPONSE TO EMERGENCY PETITION FOR WRIT OF CERTIORARI**

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Ft. Lauderdale, FL 33301

09-22784

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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION

CASE NOS.: 2006-CF9454 AXX and 2008-CF9381 AXX

STATE OF FLORIDA,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

----- /
PROCEEDINGS HELD BEFORE
THE HONORABLE JEFFREY J. COLBATH

JUNE 10, 2009

11:08 A.M. - 11:25 A.M.

PALM BEACH COUNTY COURTHOUSE
WEST PALM BEACH, FLORIDA

Reported by Louanne Rawls
Notary Public, State of Florida
West Palm Beach Office #100578

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APPEARANCES:

On behalf of the Defendant
JACK ALAN GOLDBERGER, ESQUIRE
Atterbury, Goldberger, et al.



On behalf of the Defendant
ROBERT CRITTON, JR., ESQUIRE
Burman, Critton, et al.

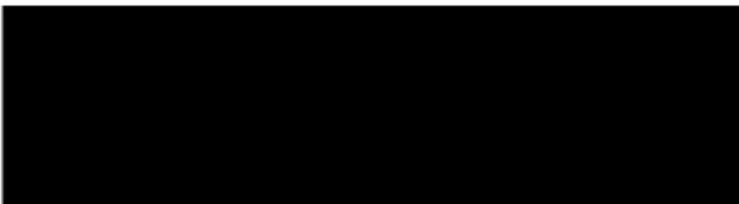


On behalf of Third Party E.W.

WILLIAM J. BERGER, ESQUIRE
BRADLEY J. EDWARDS, ESQUIRE
Rothstein Rosenfeldt Adler



On behalf of Third Party, The Post
DEANNA SHULLMAN, ESQUIRE
Thomas, LoCiero & Bralow, PL



P R O C E E D I N G S

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3 BE IT REMEMBERED that the following proceedings were had
4 and testimony adduced before the Honorable Jeffrey Colbath, at
5 the Palm Beach County Courthouse, West Palm Beach, Florida
6 beginning at the hour of 11:08 a.m. on June 10, 2009, with
7 appearances as herein noted to-wit:

8 THE COURT: State vs. Epstein. Let me have for the
9 record, announce everybody's appearance.

10 MR. BERGER: Your Honor, William J. Berger and
11 Bradley Edwards for non-party E.W.

12 MS. SHULLMAN: Your Honor, Deanna Shullman of
13 Thomas, LoCiero & Bralow for non-party The Palm Beach
14 Post.

15 THE COURT: Let me slow down a little bit. On behalf
16 of The Post is?

17 MS. SHULLMAN: Deanna Shullman.

18 THE COURT: S-H-U-L --

19 MS. SHULLMAN: S-H-U-L-L-M-A-N.

20 THE COURT: Ms. Shullman, good morning. Mr. Berger,
21 good morning. And Mr. Berger, your client is E --

22 MR. BERGER: E.W., yes.

23 THE COURT: Anybody else here?

24 MR. EDWARDS: Brad Edwards on behalf of E.W. as
25 well, Judge. Thanks.

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THE COURT: Last name is spelled?

MR. EDWARDS: Edwards. E-D-W-A-R-D-S.

THE COURT: Okay.

MR. GOLDBERGER: For the other side, Your Honor, Jack Goldberger along with Robert Critton on behalf of Jeffrey Epstein.

THE COURT: It is the Post's and E.W.'s Motion to Intervene for the purpose of unsealing records?

MR. BERGER: Yes, sir.

THE COURT: Here's what I think I know, and I tell you this so that you can fill in the gaps of what you know that I don't know and suggest what you think I ought to do. It appears to me that there was some agreement -- an agreement that was sealed and then an addendum or amendment to the agreement that was sealed as to documents in the Court's files under seal and it appears as though the punitive interveners want to unseal those and take a peak at them. I don't see where any of the proper procedures to seal the documents was ever followed to begin with. I don't know but it's not jumping out at me when I reviewed the file. So, I'm thinking that it might be appropriate and the burden might be on the moving party, being the State and Mr. Epstein, to give them the opportunity to jump through the hur -- hoops to seal the documents if they are entitled to have them sealed, then

1 I'll grant that request. If they're not entitled to seal
2 then I'll order it as documents unsealed. But that's kind
3 of procedurally where I think the case is. I will allow
4 Mr. Berger and Ms. Shullman to argue if they wish to,
5 otherwise I will go over to Mr. Goldberger and Mr. Critton
6 to perhaps talk about what they think about my suggestion.
7 Mr. Berger?

8 MR. BERGER: I -- I'd like to hear what they say.

9 THE COURT: Ms. Shullman?

10 MS. SHULLMAN: Agreed.

11 THE COURT: Mr. Goldberger?

12 MR. GOLDBERGER: Your Honor --

13 THE COURT: I mean, it looks like they just handed
14 up an Agreed Order to sign.

15 MR. GOLDBERGER: Well, if the Court -- I know the
16 Court is trying to short circuit here and the idea in
17 theory is not horrible, it's not terrible, it's actually
18 not so bad. But let me alert the Court to a couple of
19 issues. First of all, this is not something that came up
20 ahead of time where we were moving to close a hearing or
21 file documents under seal and the Rules of Judicial
22 Administration makes an important distinction between
23 things that are done in advance and things that come up
24 during a hearing and the fact that maybe it goes to the
25 Rule -- talk about situations that arise during the course

1 of a hearing, that the Rules would not apply to that.
2 Secondly, E.W.'s Motion to Intervene is brought under a
3 Rule that does not apply because she brought it under a
4 Rule that applies to non-criminal cases. Having said that
5 I know the Court's desire to get to the issues here and I
6 just need to alert the Court to one other matter because I
7 think it's really important. The Plaintiff's, E.W., has
8 this agreement already. They have this agreement. Counsel
9 will tell you they have this agreement. There have been
10 two hearings in front of Judge Marra who has the Federal
11 cases here. They moved to unseal the non-prosecution
12 agreement in front of Judge Marra. He entered an initial
13 Order, a very, very well reasoned Order which I have a
14 copy for the Court.

15 THE COURT: Oh, thanks.

16 MR. GOLDBERGER: He entered a very, very well
17 reasoned Order weighing the interest of the Plaintiffs to
18 have access to the non-prosecution agreement with the
19 confidentiality that the parties intended to be part of
20 this agreement. And what he did, he said they can have
21 this agreement. They can review it all they want. If they
22 want to review it with somebody else, they need to give
23 them a copy of this Order that it is not to be disclosed
24 to anyone else. Subsequent to that -- so that's the Rule
25 that's in place right now. Subsequent to that the

1 Plaintiffs went back and said we want to disseminate this
2 Order. We want to disseminate this agreement to other
3 parties and Judge Marra entered a second Order denying
4 that request and said, no. My Order is in place but if you
5 have some compelling reason why you want this agreement to
6 be disseminated to others, file a motion and come back to
7 me.

8 THE COURT: This is as a result of some civil
9 litigation pending in the Federal Courthouse?

10 MR. GOLDBERGER: Yes.

11 THE COURT: As opposed to any criminal prosecution
12 going on?

13 MR. GOLDBERGER: It is civil proceedings that are
14 going on in Federal Court. But in the interest of comedy,
15 Your Honor, the Court has ruled on the confidentiality
16 agreement and has put a well reasoned procedure into
17 place. If the parties want that agreement unsealed where
18 they need to go is go back to Federal Court and Judge
19 Marra invited them to do so.

20 THE COURT: That may be as it pertains to E.W., but
21 what about The Post?

22 MR. GOLDBERGER: I think -- and I think I know where
23 the Court is going on this. If The Post's position is the
24 public has right to acc -- access to this then there is a
25 procedure in place and ultimately the Court has to conduct

1 a hearing and do the balancing test where you look at
2 whether there is some compelling government interest and
3 that's going to require an evidentiary hearing. So I have
4 no great objection to filing the Request for Closure and
5 then have a hearing in front of the Court.

6 THE COURT: Well, let's do -- I'm thinking out loud.
7 I'm not ruling. I will give you all a chance to argue
8 further, but this is what I'm thinking I will do, grant
9 the Motion to Intervene. It gives standing to E.W. It
10 gives standing to The Post to contest the fact that these
11 were sealed. And then I will shift the burden back on the
12 State and Defendant, Mr. Epstein, to petition the Court to
13 seal these documents. Until such time that I rule on that
14 I will leave them under seal because they might have been
15 correctly sealed but the procedure wasn't followed.
16 There's got to be notice. You've got to comply with the
17 Administrative Order 2.303. You've got to comply with the
18 Rule of Judicial Administration 2.420(d). I think even
19 though that's a civil -- it addresses a civil matter this
20 is, you know, in the nature of a civil procedure. So, I'll
21 do that. And thank you for these Orders. So, where do we
22 go from here? I'm thinking out loud, not ruling. Mr.
23 Berger?

24 MR. BERGER: Judge, with all due respect I
25 completely disagree with counsel's characterization of

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those two Orders. I don't know if he handed up both to you?

THE COURT: I do.

MR. BERGER: They simply do not say what he tells you they say.

THE COURT: I'll read them --

MR. BERGER: All right.

THE COURT: -- and I'll allow you to make that argument --

MR. BERGER: And -- and --

THE COURT: -- at the time of the Renewed Motion to Seal.

MR. BERGER: All right. And, also, I don't think the Court -- I think the Court needs to deal with this immediately, expeditiously. This is a matter that the Supreme Court has placed incredible scrutiny over. And the Rule that we are traveling under -- we're not only traveling under a Rule of Judicial Administration that applies to criminal and civil cases, we're applying to an Administrative Order of this Court that was in place when the sealing was done and that superseded the sealing.

THE COURT: I --

MR. BERGER: I'm just saying, I respectfully request that the Court not delay this one minute.

THE COURT: You've got the agreements.

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MR. BERGER: Pardon me?

THE COURT: You've got the agreements anyway. You've got what's under seal.

MR. BERGER: Judge, we cannot do anything with them.

THE COURT: Take that up with Judge Marra.

MR. BERGER: No, sir. That is not what the Order says. May I quote Judge Marra. "If a specific tangible need arises in a civil case the relief should be sought in that case." In other words, the civil cases which are in front of Judge Hafele is one forum that Judge Marra said go to it. Judge Marra did not say that this Court does not have jurisdiction to unseal its own sealed records or to vacate its own Order sealing. And any characterization is -- is false.

THE COURT: I'll take a look at it and I'll draw from it what it says -- what I think it says. I appreciate your zealous representation of your client. Please, it appears as though you're yelling at me.

MS. SHULLMAN: Your Honor?

THE COURT: Ms. Shullman?

MR. BERGER: Judge, this happens to be a very serious matter and every day of delay delays our discovery.

THE COURT: Ms. Shullman?

MS. SHULLMAN: Your Honor, if I may be heard on the

1 issue as well. As a representative of the public's right
2 of access --

3 THE COURT: Right.

4 MS. SHULLMAN: -- here essentially, I would agree
5 with Mr. Berger that we need an immediate hearing on this
6 issue. That's what we're here to do today. I think I heard
7 Your Honor say that he's not clear that the procedures
8 were applied. My review of the record does not reveal that
9 the procedures were complied with. My review is similar to
10 Your Honor's. It looks like sort of everybody approached
11 the bench and Judge Pucillo said let's take it under seal.
12 If Mr. Epstein's counsel is not prepared to go forward
13 today and meet his burden, then I would ask that this
14 Court set a hearing as soon as practical because the right
15 solution here should be to unseal the records and then,
16 you know --

17 THE COURT: I've gotcha.

18 MS. SHULLMAN: -- and they have to make a motion.

19 THE COURT: Well, what house is on fire? I mean,
20 what is the -- I think what they have to do is they've got
21 to give ten days notice pursuant to the Rule -- the
22 Administrative Order, Rules of Judicial Administration, to
23 go through that process. What -- what prejudice is there?
24 What house is burning down if I say okay. State and
25 defense, go ahead and expeditiously move through the

1 process and let's get this back on my docket as quickly as
2 possible and give them until Friday to file their notice
3 and ten days after that we have an evidentiary hearing. I
4 go through the process then. What bad thing is going to
5 happen by waiting these extra twelve to fifteen days?

6 MS. SHULLMAN: The bad thing that's going to happen,
7 Your Honor, is that the status quo in Florida is that the
8 constitutional right of access is openness.

9 THE COURT: Right.

10 MS. SHULLMAN: You know, certainly if Your Honor is
11 inclined to postpone this hearing I would ask that it be
12 done expeditiously as you suggest.

13 THE COURT: Yeah.

14 MS. SHULLMAN: You know, Friday and then ten days
15 thereafter, it just delays access for another two weeks
16 and it infringes on our rights.

17 THE COURT: I agree. Mr. Berger, I will let you
18 answer that same question.

19 MR. BERGER: I don't think --

20 THE COURT: Anything specific rather than --

21 MR. BERGER: Yes.

22 THE COURT: You know, anything closed that the
23 people are allowed to look at is a transgression and any
24 transgression is bad, but anything unique beyond that?

25 MR. BERGER: Your Honor -- Your Honor, I do not

1 believe that this Court has the jurisdiction to revisit
2 the propriety of the sealing of these records and give the
3 Defendant or the State, for that matter, a second bite at
4 the apple. If the records are sealed improperly, which the
5 Court has said on its face that appears to have occurred,
6 I do not believe that this Court has jurisdiction to allow
7 them a second bite at the apple to go through with the
8 notice requirements. They should have done that in front
9 of Judge Pucillo a year ago and they did not do it. The
10 Rule of Judicial Administration 2.420 simply does not give
11 this Court the right to reactivate the procedure that you
12 outlined.

13 THE COURT: Okay.

14 MR. BERGER: Thank you.

15 THE COURT: Anything further, Mr. Goldberger or Mr.
16 Critton?

17 MR. GOLDBERGER: Just note, Your Honor, as far as
18 the timing of this and we want to do this expeditiously,
19 of course, this sealing occurred not last week, not two
20 weeks ago, not four months ago but eleven and one half
21 months ago. The Post reported this last July. So, I
22 understand the right for the public to have access and we
23 want to do this as quickly as possible but there is no
24 fire here. There is no house burning.

25 THE COURT: Then I'll go ahead and enter an Order as

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I've indicated, that is that I'll grant the Intervener's Motion to Intervene. You have standing. I will order that the State and/or the defense by noon Friday file a Notice of -- comply with the Administrative Order 2.303 and the Judicial Rule -- the Rule of Judicial Administration 2.420, paragraph d, that outlines the procedures to seal files in these types of cases and then we'll get a hearing scheduled for argument on whether or not they will be sealed. Until that time they will remain sealed because Judge Pucillo signed off on the Order and I'm not inclined to disturb that until I find more about the merits of the movant's position.

MR. GOLDBERGER: Thank you.

THE COURT: Anybody want to reduce any of that mess to a written Order?

MR. EDWARDS: I'd like to Your Honor. I'd like to know if you're going to give us a hearing date today.

THE COURT: I'll deal with that. Yeah. Let me give you some time. How much time do you think it's going to take? I don't think I'm going to have any surprises. How much time do you think we need? A half hour?

MR. EDWARDS: Not more. I'd say an hour at the longest.

THE COURT: I'm not taking evidence or anything like that. In the meantime, do you agree it would be prudent

1 for me to take a look and see what the content of these
2 things are so I can be articulate on what -- their know
3 about? I didn't do that for today's hearing?

4 MR. GOLDBERGER: The defense --

5 MR. EDWARDS: The non-prosecution agreement?

6 THE COURT: Right. Whatever is under seal. Whatever
7 it is that's under seal I'll take a look at it so that I
8 can at least have a feel for apparently what you all know
9 and I don't.

10 MR. GOLDBERGER: The defense has no objection.

11 THE COURT: Okay. I'll go ahead and read those two
12 sealed documents and I'll see you back here, assuming that
13 Mr. Goldberger and Mr. Critton get that done between now
14 and Friday. Ten days from this Friday is the 22nd. How
15 about we do this on the 25th at 1:30?

16 MR. GOLDBERGER: One moment, Your Honor. That's fine
17 with me.

18 MR. BERGER: Thank you.

19 THE COURT: All right. Great. Thank you so much.

20 MR. GOLDBERGER: Thank you, Judge.

21 (PROCEEDINGS CONCLUDED)
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C E R T I F I C A T E

I, LOUANNE RAWLS, certify that I was authorized to
and did digitally report the foregoing proceedings and that the
transcript is a true and complete record of my notes.

Dated this 10th day of June, 2009.

LOUANNE RAWLS, #100578

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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY,
FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,

Plaintiff,

vs. JEFFREY EPSTEIN,

Defendant.

PROCEEDINGS HELD BEFORE THE HONORABLE JEFFREY J.
COLBATH

JUNE 10, 2009 11:08 A.M. - 11:25
A.M. PALM BEACH COUNTY COURTHOUSE
WEST PALM BEACH, FLORIDA

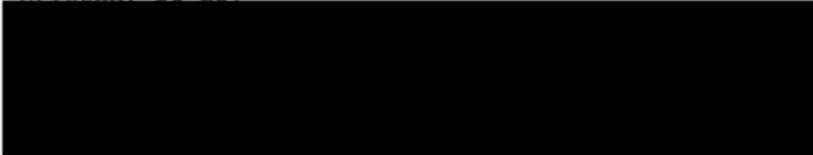
Reported by Louanne Rawls Notary Public, State of
Florida West Palm Beach Office #100578

APPEARANCES:

On behalf of the Defendant
JACK ALAN GOLDBERGER, ESQUIRE Atterbury,
Goldberger, et al.



On behalf of the Defendant
ROBERT CRITTON, JR., ESQUIRE Burman,
Critton, et al.



On behalf of Third Party E.W. WILLIAM J. BERGER,

ESQUIRE BRADLEY J. EDWARDS, ESQUIRE
Rothstein Rosenfeldt Adler



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On behalf of Third Party, The Post DEANNA

SHULLMAN, ESQUIRE Thomas, LoCiero &



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PROCEEDINGS

BE IT REMEMBERED that the following proceedings were had and testimony adduced before the Honorable Jeffrey Colbath, at the Palm Beach County Courthouse, West Palm Beach, Florida beginning at the hour of 11:08 a.m. on June 10, 2009, with appearances as herein noted to-wit:

THE COURT: State vs. Epstein. Let me have for the record, announce everybody's appearance.

MR. BERGER: Your Honor, William J. Berger and Bradley Edwards for non-party E.W.

MS. SHULLMAN: Your Honor, Deanna Shullman of Thomas, LoCiero & Bralow for non-party The Palm Beach Post.

THE COURT: Let me slow down a little bit. On behalf of The Post is?

MS. SHULLMAN: Deanna Shullman. THE COURT: S-H-U-

L -

MS. SHULLMAN: S-H-U-L-L-M-A-N.

THE COURT: Ms. Shullman, good morning. Mr. Berger, good morning. And Mr. Berger, your client is E -

MR. BERGER: E.W., yes.

THE COURT: Anybody else here?

MR. EDWARDS: Brad Edwards on behalf of E.W. as well, Judge. Thanks.

THE COURT: Last name is spelled? MR. EDWARDS: Edwards. E-D-
W-A-R-D-S. THE COURT: Okay.

MR. GOLDBERGER: For the other side, Your Honor, Jack Goldberger along with
Robert Critton on behalf of Jeffrey Epstein.

THE COURT: It is the Post's and E.W.'s Motion to Intervene for the purpose of
unsealing records?

MR. BERGER: Yes, sir.

THE COURT: Here's what I think I know, and I tell you this so that you can fill in
the gaps of what you know that I don't know and suggest what you think I ought to do. It
appears to me that there was some agreement -- an agreement that was sealed and then an
addendum or amendment to the agreement that was sealed as to documents in the Court's files
under seal and it appears as though the punitive interveners want to unseal those and take a
peek at them. I don't see where any of the proper procedures to seal the documents was ever
followed to begin with. I don't know but it's not jumping out at me when I reviewed the
file. So, I'm thinking that it might be appropriate and the burden might be on the moving
party, being the State and Mr. Epstein, to give them the opportunity to jump through the hur --
hoops to seal the documents if they are entitled to have them sealed, then

I'll grant that request. If they're not entitled to seal then I'll order it as documents unsealed. But that's kind of procedurally where I think the case is. I will allow Mr. Berger and Ms. Shullman to argue if they wish to, otherwise I will go over to Mr. Goldberger and Mr. Critton to perhaps talk about what they think about my suggestion. Mr. Berger?

MR. BERGER: I -- I'd like to hear what they say. THE COURT: Ms. Shullman?

MS. SHULLMAN: Agreed.

THE COURT: Mr. Goldberger? MR. GOLDBERGER: Your Honor -

THE COURT: I mean, it looks like they just handed up an Agreed Order to sign.

MR. GOLDBERGER: Well, if the Court -- I know the Court is trying to short circuit here and the idea in theory is not horrible, it's not terrible, it's actually not so bad. But let me alert the Court to a couple of issues. First of all, this is not something that came up ahead of time where we were moving to close a hearing or file documents under seal and the Rules of Judicial Administration makes an important distinction between things that are done in advance and things that come up during a hearing and the fact that maybe it goes to the Rule -- talk about situations that arise during the course

of a hearing, that the Rules would not apply to that. Secondly, E.W.'s Motion to Intervene is brought under a Rule that does not apply because she brought it under a Rule that applies to non-criminal cases. Having said that I know the Court's desire to get to the issues here and I just need to alert the Court to one other matter because I think its really important. The Plaintiff's, E.W., has this agreement already. They have this agreement. Counsel will tell you they have this agreement. There have been two hearings in front of Judge Marra who has the Federal cases here. They moved to unseal the non-prosecution agreement in front of Judge Marra. He entered an initial Order, a very, very well reasoned order which I have a copy for the Court.

THE COURT: Oh, thanks.

MR. GOLDBERGER: He entered a very, very well reasoned order weighing the interest of the Plaintiffs to have access to the non-prosecution agreement with the confidentiality that the parties intended to be part of this agreement. And what he did, he said they can have this agreement. They can review it all they want. If they want to review it with somebody else, they need to give them a copy of this Order that it is not to be disclosed to anyone else. Subsequent to that -- so that's the Rule that's in place right now. Subsequent to that the

Plaintiffs went back and said we want to disseminate this Order. We want to disseminate this agreement to other parties and Judge Marra entered a second Order denying that request and said, no. My Order is in place but if you have some compelling reason why you want this agreement to be disseminated to others, file a motion and come back to

me.

THE COURT: This is as a result of some civil litigation pending in the Federal Courthouse?

MR. GOLDBERGER: Yes.

THE COURT: As opposed to any criminal prosecution going on?

MR. GOLDBERGER: It is civil proceedings that are going on in Federal Court. But in the interest of comedy, Your Honor, the Court has ruled on the confidentiality agreement and has put a well reasoned procedure into place. If the parties want that agreement unsealed where they need to go is go back to Federal Court and Judge Marra invited them to do so.

THE COURT: That may be as it pertains to E.W., but what about The Post?

MR. GOLDBERGER: I think -- and I think I know where the Court is going on this. If The Post's position is the public has right to acc -- access to this then there is a procedure in place and ultimately the Court has to conduct

a hearing and do the balancing test where you look at whether there is some compelling government interest and that's going to require an evidentiary hearing. So I have no great objection to filing the Request for Closure and then have a hearing in front of the Court.

THE COURT: Well, let's do -- I'm thinking out loud. I'm not ruling. I will give you all a chance to argue further, but this is what I'm thinking I will do, grant the Motion to Intervene. It gives standing to E.W. It gives standing to The Post to contest the fact that these were sealed. And then I will shift the burden back on the State and Defendant, Mr. Epstein, to petition the Court to seal these documents. Until such time that I rule on that I will leave them under seal because they might have been correctly sealed but the procedure wasn't followed. There's got to be notice. You've got to comply with the Administrative order 2.303. You've got to comply with the Rule of Judicial Administration 2.420(d). I think even though that's a civil -- it addresses a civil matter this is, you know, in the nature of a civil procedure. So, I'll do that. And thank you for these Orders. So, where do we go from here? I'm thinking out loud, not ruling. Mr. Berger?

MR. BERGER: Judge, with all due respect I completely disagree with counsel's characterization of

those two Orders. I don't know if he handed up both to you?

THE COURT: I do.

MR. BERGER: They simply do not say what he tells you they say.

THE COURT: I'll read them --MR. BERGER: All right.

THE COURT: -- and I'll allow you to make that argument --

MR. BERGER: And -- and --

THE COURT: -- at the time of the Renewed Motion to

Seal.

MR. BERGER: All right. And, also, I don't think the Court -- I think the Court needs to deal with this immediately, expeditiously. This is a matter that the Supreme Court has placed incredible scrutiny over. And the Rule that we are traveling under -- we're not only traveling under a Rule of Judicial Administration that applies to criminal and civil cases, we're applying to an Administrative Order of this Court that was in place when the sealing was done and that superseded the sealing.

THE COURT: I --

MR. BERGER: I'm just saying, I respectfully request that the Court not delay this one minute.

THE COURT: You've got the agreements.

MR. BERGER: Pardon me?

THE COURT: You've got the agreements anyway. You've got what's under seal.

MR. BERGER: Judge, we cannot do anything with them. THE COURT: Take that up with Judge Marra.

MR. BERGER: No, sir. That is not what the Order says. May I quote Judge Marra. "If a specific tangible need arises in a civil case the relief should be sought in that case." In other words, the civil cases which are in front of Judge Hafele is one forum that Judge Marra said go to it. Judge Marra did not say that this Court does not have jurisdiction to unseal its own sealed records or to vacate its own Order sealing. And any characterization is -- is false.

THE COURT: I'll take a look at it and I'll draw from it what it says -- what I think it says. I appreciate your zealous representation of your client. Please, it appears as though you're yelling at me.

MS. SHULLMAN: Your Honor? THE COURT: Ms. Shullman?

MR. BERGER: Judge, this happens to be a very serious matter and every day of delay delays our discovery.

THE COURT: Ms. Shullman?

MS. SHULLMAN: Your Honor, if I may be heard on the

issue as well. As a representative of the public's right of access -

THE COURT: Right.

MS. SHULLMAN: -- here essentially, I would agree with Mr. Berger that we need an immediate hearing on this issue. That's what we're here to do today. I think I heard Your Honor say that he's not clear that the procedures were applied. My review of the record does not reveal that the procedures were complied with. My review is similar to Your Honor's. It looks like sort of everybody approached the bench and Judge Pucillo said let's take it under seal. If Mr. Epstein's counsel is not prepared to go forward today and meet his burden, then I would ask that this Court set a hearing as soon as practical because the right solution here should be to unseal the records and then, you know -

THE COURT: I've gotcha.

MS. SHULLMAN: -- and they have to make a motion. THE COURT: Well, what house is on fire? I mean, what is the -- I think what they have to do is they've got to give ten days notice pursuant to the Rule -- the Administrative Order, Rules of Judicial Administration, to go through that process. What -- what prejudice is there? What house is burning down if I say okay. State and defense, go ahead and expeditiously move through the

2 process and let's get this back on my docket as quickly as possible and give them until Friday to file their notice and ten days after that we have an evidentiary hearing. I go through the process then. What bad thing is going to happen by waiting these extra twelve to fifteen days?

MS. SHULMAN: The bad thing that's going to happen, Your Honor, is that the status quo in Florida is that the constitutional right of access is openness.

THE COURT: Right.

MS. SHULMAN: You know, certainly if Your Honor is inclined to postpone this hearing I would ask that it be done expeditiously as you suggest.

THE COURT: Yeah.

MS. SHULMAN: You know, Friday and then ten days thereafter, it just delays access for another two weeks and it infringes on our rights.

THE COURT: I agree. Mr. Berger, I will let you answer that same question.

MR. BERGER: I don't think -

THE COURT: Anything specific rather than -MR. BERGER: Yes.

THE COURT: You know, anything closed that the people are allowed to look at is a transgression and any transgression is bad, but anything unique beyond that?

MR. BERGER: Your Honor -- Your Honor, I do not

believe that this Court has the jurisdiction to revisit the propriety of the sealing of these records and give the Defendant or the State, for that matter, a second bite at the apple. If the records are sealed improperly, which the Court has said on its face that appears to have occurred, I do not believe that this Court has jurisdiction to allow them a second bite at the apple to go through with the notice requirements. They should have done that in front of Judge Pucillo a year ago and they did not do it. The Rule of Judicial Administration 2.420 simply does not give this Court the right to reactivate the procedure that you outlined.

THE COURT: Okay.

MR. BERGER: Thank you.

THE COURT: Anything further, Mr. Goldberger or Mr. Critton?

MR. GOLDBERGER: Just note, Your Honor, as far as the timing of this and we want to do this expeditiously, of course, this sealing occurred not last week, not two weeks ago, not four months ago but eleven and one half months ago. The Post reported this last July. So, I

understand the right for the public to have access and we want to do this as quickly as possible but there is no fire here. There is no house burning.

THE COURT: Then I'll go ahead and enter an Order as

I've indicated, that is that I'll grant the Intervener's Motion to Intervene. You have standing. I will order that the State and/or the defense by noon Friday file a Notice of -- comply with the Administrative Order 2.303 and the Judicial Rule -- the Rule of Judicial Administration

2.420, paragraph d, that outlines the procedures to seal files in these types of cases and then we'll get a hearing scheduled for argument on whether or not they will be sealed. Until that time they will remain sealed because Judge Pucillo signed off on the order and I'm not inclined

to disturb that until I find more about the merits of the movant's position.

MR. GOLDBERGER: Thank you.

THE COURT: Anybody want to reduce any of that mess to a written Order?

MR. EDWARDS: I'd like to Your Honor. I'd like to know if you're going to give us a hearing date today. THE COURT: I'll deal with that. Yeah. Let me give

you some time. How much time do you think it's going to take? I don't think I'm going to have any surprises. How much time do you think we need? A half hour?

MR. EDWARDS: Not more. I'd say an hour at the longest.

THE COURT: I'm not taking evidence or anything like that. In the meantime, do you agree it would be prudent

for me to take a look and see what the content of these things are so I can be articulate on what -- their know about? I didn't do that for today's hearing?

MR. GOLDBERGER: The defense -

MR. EDWARDS: The non-prosecution agreement?

THE COURT: Right. Whatever is under seal. Whatever it is that's under seal I'll take a look at it so that I can at least have a feel for apparently what you all know and I don't.

MR. GOLDBERGER: The defense has no objection.

THE COURT: Okay. I'll go ahead and read those two sealed documents and I'll see you back here, assuming that Mr. Goldberger and Mr. Critton get that done between now and Friday. Ten days from this Friday is the 22nd. How about we do this on the 25th at 1:30?

MR. GOLDBERGER: One moment, Your Honor. That's fine with me.

MR. BERGER: Thank you.

THE COURT: All right. Great. Thank you so much. MR. GOLDBERGER: Thank you, Judge.

(PROCEEDINGS CONCLUDED)

C E R T I F I C A T E

I, LOUANNE RAWLS, certify that I was authorized to and did digitally report the foregoing proceedings and that the transcript is a true and complete record of my notes.

Dated this 10th day of June, 2009.

LOUANNE RAWLS, #100578

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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2.303-9/08

IN RE: SEALING OF COURT HEARINGS
AND RECORDS

The Florida constitution mandates that the public shall have access to court records, subject only to certain enumerated limitations which are restricted by operation of state law, federal law, or court rule. In re Amendments to Florida Rule of Judicial Admin. 2.420 – Sealing of Court Records, 954 So.2d 16 (Fla. 2007). The Rules of the Supreme Court strongly disfavor court records that are hidden from public scrutiny. The Florida Supreme Court recently adopted Interim Rule 2.420 of the Florida Rules of Judicial Administration which addresses the procedures for sealing noncriminal court records. In order to ensure that both criminal and noncriminal court records are sealed properly it is

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

1. A request to make court records or a court hearing confidential in any type of case must be made by written motion. Parties cannot submit an agreed-upon order. The Motion must be captioned "Motion to Make Court Records Confidential" or "Motion to Make Court Hearing Confidential". The Motion must identify with particularity the records or hearing to be made confidential and the grounds upon which it is based. The Motion must include a signed certification by the party making the request that the motion is being made in good faith and is supported by a sound factual and legal basis.
2. The records that are the subject of a Motion to Make Court Records Confidential will be treated as confidential pending resolution of the motion. The case number, docket number, or other identifying number of a case will remain public. Pseudonyms may be used as permitted by the court. Court records made confidential under this rule must be treated as confidential during any appellate proceeding in this Circuit.
3. A public hearing on any motion to seal a court record or court hearing will be held as soon as practicable but no less than ten (10) days prior to the notice being given to the public and the press and no later than 30 days after the filing of the motion. A party may seek to hold all or

a portion of the hearing on a Motion to Make Court Records Confidential *in camera* if necessary to protect any of the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The moving party will be responsible for ensuring that a complete record of any hearing be created either by use of a court reporter or by any recording device that is provided as a matter of right by the court.

4. A sealing order issued by a court must state with specificity the grounds for sealing and the findings of the court that justify sealing. The order granting the sealing request must contain as much detail as possible including the parties' names or pseudonyms, whether the progress docket is to be confidential, the court records that are to be confidential and the names of persons who are permitted access. The order must contain specific findings that the degree, duration, and manner of confidentiality are no broader than necessary to protect the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The order will not reveal the information that is to be made confidential. The order will direct whether the progress docket is to be sealed.
5. If an order sealing a court file is silent as to whether the progress docket is to be sealed, the clerk shall seal the court file but maintain a public docket with no alternation of the parties' names. In accordance with Interim Rule of Judicial Administration 2.420(c)(9) the Clerk shall NOT seal the case number, docket number, or any other identifying number of a case that is sealed by court order.
6. The Court will direct the Clerk to post the order sealing the court file on the Clerk's website as well as on the bulletin board located at the Main Courthouse within ten (10) days following the entry of the order and must remain posted in both locations for at least 30 days.
7. A nonparty may file a written motion to vacate a sealing order in accordance with Florida Rule of Judicial Administration 2.420 (2007); In re Amendments to Florida Rule of Judicial Admin. 2.420 – Sealing of Court Records, 954 So.2d 16 (Fla. 2007).
8. A public hearing must be held on any contested motion to vacate a sealing order. The court, in its discretion, may hold a hearing on an uncontested motion. While challenge hearings must be open to the public, a party may seek to hold a portion or all of the hearing *in camera* if necessary to protect the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The movant must ensure that a record of the hearing is made. The movant seeking to vacate an order bears the burden of showing that the order is unsound.
9. If the identity of a party is to remain confidential, all applicable pleadings will be filed with the following designation on the front of the pleading: "Confidential Party – Court Service Requested". The judicial assistant for the division in which the pleading is filed is responsible for providing such notice to the applicable parties. The judicial assistant is to provide such notice so as not to inadvertently reveal the identity of the confidential party.

10. This administrative rule does NOT address the confidentiality of records admitted into evidence and it does NOT pertain to the statutory process for sealing or expunging criminal history records. Motions to Seal pleadings or court records filed in a criminal case must, however, comply with this Administrative Order. This administrative order also does NOT pertain to court records that are confidential pursuant to statute, rule or other legal authority.
11. If a motion to seal is not made in good faith and is not supported by a sound legal and factual basis, the court may impose sanctions upon the movant.
12. The Clerk of Court, or a deputy clerk, is hereby authorized to open any court file sealed by operation of law or court order for the purpose of filing documents pertinent to the particular file, as well as for microfilming or imaging files, and for preparing a record on appeal. The Clerk, or deputy clerk, shall reseal the file immediately upon completion of the task, with the date and time of the unsealing clearly marked on the outside of the file along with the initials of the deputy clerk.
13. In all matters except adoption and surrogacy cases, the Clerk of Court will make the contents of a sealed file available to adult parties and their attorneys of record. The contents of adoption and surrogacy files shall not be made available to any person absent a court order.

DONE AND SIGNED in Chambers in West Palm Beach, Palm Beach County, Florida
this 29 day of September, 2008.


Kathleen J. Kroll
Chief Judge

supersedes admin. order 2.032 10/06

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY FLORIDA

ADMINISTRATIVE ORDER NO. 2.032 - 10/06*

IN RE: SEALING COURT HEARINGS
AND RECORDS

WHEREAS all court proceedings are public events and a strong presumption of public access attaches to all proceedings and their records; and

WHEREAS records made or received pursuant to court rule, law, or ordinance, or in connection with the transaction of official business are subject to public disclosure; and

WHEREAS privacy rights of litigants may in certain circumstances require that court records or documents in the record should be sealed.

NOW, THEREFORE, it is ORDERED that to balance the competing interests of litigants' privacy interests and the public's right to access to court records, the following procedures are established for sealing court records:

1. When a Motion is received for the sealing of a hearing or all or part of a court record, the Court will direct a hearing be held on same. The Court will give notice of the hearing by posting same on the electronic bulletin board established by the Clerk of Court expressly for this purpose. Unless otherwise ordered with a reason given by the Court, notice should include enough disclosure to identify the case, the movant, the respondent, and a brief, generic description of the matters sealed or sought to be sealed.

2. The Court will not set a hearing less than ten (10) days prior to the notice being given to the public and the press.

3. Where prior notice to the public and press regarding the sealing of a record is not practicable, the Court will address such Motion, and if granted, provide notice of any decision to seal on the Clerk's electronic bulletin board. Unless otherwise ordered with a reason given by the Court, notice should include enough disclosure to identify the case, the movant, the respondent, and a brief, generic description of the matters sealed or sought to be sealed.

4. Access to court proceedings and records may be restricted to protect the interests of litigants only after a showing that the following has been met:

(i) the measure limiting or denying access, closure or sealing of records or both, is necessary to prevent a serious and imminent threat to the administration of justice;

Not Reported in So.2d

Not Reported in So.2d, 1994 WL 741009 (Fla.Cir.Ct.), 22 Media L. Rep. 2497

(Cite as: 1994 WL 741009 (Fla.Cir.Ct.))

C

Florida Circuit Court, Seventh Judicial Circuit,
Volusia County.

JOHN DOE-1 THROUGH JOHN DOE-4 and Par-
ents of John Doe-1 through John Doe-4, Plaintiffs,

MUSEUM OF SCIENCE AND HISTORY OF
JACKSONVILLE, INC., Defendant.

Nos. 92-32567-CI-CI, Div. 32.

June 8, 1994.

William H. Ogle, Ormond Beach, FL.

W. Douglas Childs, Jacksonville, FL.

Jonathan D. Kaney Jr., Daytona Beach, FL.

OPINION AND ORDER ON MOTION TO
CLOSE TRIAL

RICHARD B. ORFINGER, Circuit Judge.

*1 THIS MATTER is before the Court on the plaintiffs' motion to exclude the public from the trial of this case. Notice of hearing was given to representatives of the media as required by law. News-Journal Corporation, publisher of *The News-Journal*, filed a response and appeared in opposition to the motion. Defendant took no position.

According to the complaint, a man who worked at the local museum sexually abused the minor plaintiffs. He had first come into contact with three of the minors as they served as volunteers under his supervision. More than four years ago, the abuser was prosecuted and sentenced to prison. Since then the plaintiffs have settled suits for damages resulting from this abuse against the Daytona Beach Museum of Arts and Sciences, the Volusia County School Board, and the Florida Department of Health and Rehabilitative Services. As a previous employer of the abuser, plaintiffs allege this de-

fendant failed to disclose information about the abuser's record of sexual abuse when it received an inquiry related to his employment in this community.

Although so many persons have become familiar with the case that defendant has listed eighty-one potential fact witnesses, no victim has yet been identified in the media.

Relying on a privacy interest in the facts relating to the sexual abuse, plaintiffs argue that closure is necessary to prevent the substantial harm that likely would result from revelation of these facts and identification as the victims.^{FN1} Thus the motion calls upon the court to decide whether a privacy interest in the facts relating to sexual abuse suffered by the minors provides a proper basis for closure of the trial of the minors' suit for damages arising out of this abuse. For the reasons that follow, the court concludes that this is not a proper basis for closure and denies the motion.

FN1. Previously, plaintiffs moved for an order restraining anyone, including the media, from publishing information disclosed during the trial that would identify the minor victims. The court denied this motion. See: *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976) and *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989).

Whenever other interests compete with the public interest in open judicial proceedings, "[o]ur analysis must begin with the proposition that all civil and criminal court proceedings are public events, records of court proceedings are public records, and there is a strong presumption in favor of public access to such matters." *Sentinel Communications Co. v. Watson*, 615 So.2d 768, 770 (Fla. 5th DCA 1993) (citing *Barron v. Florida Freedom Newspapers, Inc.*, 531 So.2d 113 (Fla.1988)). This presumption rests on the most fundamental values of American government.

"[T]he people have a right to know what is done in their courts.... [T]he greatest publicity to the acts of those holding positions of public trust, and the greatest freedom in the discussion of the proceedings of public tribunals that is consistent with truth and decency, are regarded as essential to the public welfare." *Barron*, 531 So.2d at 116-7 (citing *In re Shortridge*, 34 P. 227, 228-29 (Cal.1893)). Openness in courts has a salutary effect on the propensity of witnesses to tell the truth and of judicial officers to perform their duties conscientiously. It informs persons affected by litigation of its effect upon them and fosters "respect for the law[,] intelligent acquaintance ... with the methods of government[, and] a strong confidence in judicial remedies ... which could never be inspired by a system of secrecy...." *Id.*, (citing 6 WIGMORE, EVIDENCE § 1834 (Chadbourn rev.1976)). These fundamental values come into play whenever the court is in session, and the presumption of openness applies in hard cases as well as easy cases. "The reason for openness is basic to our form of government." *Id.*

*2 This motion is opposed by various news organizations, but the presumption of openness is of larger importance than the immediate interest of the press in the case of the moment. To be sure, the press has a cognizable interest in maintaining open courts "because its ability to gather news is directly impaired or curtailed" by restrictions on access. Moreover, the press is assigned a fiduciary role in enforcing public rights of access because the press "may be properly considered as a representative of the public [for] enforcement of public right of access." Nevertheless, the values of openness in courts transcend the interests of the press because "[f]reedom of the press is not, and has never been a private property right granted to those who own the news media. It is a cherished and almost sacred right of each citizen to be informed about current events on a timely basis so each can exercise his discretion in determining the destiny and security of himself, other people, and the Nation." *State ex rel. Miami Herald Pub. Co. v. McIntosh*, 340 So.2d 904, 908 (Fla.1977). In serving the right of each cit-

izen to be informed, judicial openness, of which the press is an instrument, sustains public confidence in the judiciary and thus serves the ultimate value of popular sovereignty.

This higher purpose of openness is not always apparent in the public scrutiny of the daily business of the courts. Depending on the definition of newsworthiness, it may be possible to dismiss as unworthy much that transpires in civil courts. Here, it is easy to ask what public interest is served by subjecting these minor victims to the risk of public identification. However, *Barron* teaches that this is the wrong question because it overlooks the higher purpose of openness in the courts.

In *Barron*, a case involving privacy concerns inherent in a divorce case, the court strongly reaffirmed the presumption that Florida civil courts are open. In dissent, Justice McDonald saw the question in case-specific terms. He would have closed the proceeding because "the rights of the public to information contained in a domestic relations lawsuit is minimal, if existent at all." 531 So.2d at 121. Implicitly, this approach would have required the proponent of openness to show a particular need to know facts of the specific case in order to gain access. The majority rejected this approach because it saw the conflicting interests in broader terms. "The parties seeking a dissolution of their marriage are not entitled to a private court proceeding just because they are required to utilize the judicial system." 531 So.2d at 119.

A closure request implicates the integrity and credibility of the judicial system itself and not just the immediate concerns of the parties. The balance to be struck is not between the people's need to know the particular facts of the case versus the parties' need to keep these facts private but between the public interest in open courts versus the personal desire for a private forum. "Public trials are essential to the judicial system's credibility in a free society." *Barron* at 116.

*3 Although the Florida Supreme Court holds that

Not Reported in So.2d

Not Reported in So.2d, 1994 WL 741009 (Fla.Cir.Ct.), 22 Media L. Rep. 2497

(Cite as: 1994 WL 741009 (Fla.Cir.Ct.))

"the public and the press have a fundamental right of access to all judicial proceedings," however, this right is not absolute. *State ex rel. Miami Herald Pub. Co. v. McIntosh*, 340 So.2d at 908-9. In *Barron*, the court took the occasion to establish the standards upon which the presumption of openness may be overcome when necessary "to protect competing interests." The court wrote a "definitive statement ... to assist judicial officers in this sensitive area." 531 So.2d at 117-8.

Barron establishes a strong presumption of openness for all court proceedings and records, places the burden on the proponent of closure, and grants standing to the public and media to challenge closure orders. Before a court may enter any order of closure it must determine there are no reasonable alternatives to closure and must order the least restrictive closure necessary to accomplish the purpose of closure. 531 So.2d at 118-9. A closure order should be "drawn with particularity and narrowly applied." 531 So.2d at 117.

Barron specifies an exclusive listing of those competing interests that may under appropriate circumstances be sufficiently weighty to justify closure. Closure may be ordered "only when necessary" to serve one of six competing interests:

- (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law;
- (b) to protect trade secrets;
- (c) to protect a compelling governmental interest [e.g., national security; confidential informants];
- (d) to obtain evidence to properly determine legal issues in a case;
- (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or
- (f) to avoid substantial injury to a party by disclos-

ure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed....

At the outset, the proponent of closure must identify one or more of such interests that is implicated in the proposed closure. Here it is not necessary to go beyond this first level of analysis because plaintiffs have not connected their motion to a valid interest that would justify closure.

This motion poses a direct confrontation between the individual interest in privacy and the public interest in open courts. Because there is inherent in the case sensitive, intimate, and embarrassing private facts, plaintiffs seek to litigate their claim in a closed proceeding. They argue "[t]hat revelation of [the identities of the minor plaintiffs] has the potential to inflict substantial harm upon them [as] a matter of common sense."

There is no question there are strong reasons to keep private the facts surrounding the abuse practiced on the minors by the now-imprisoned abuser. The question this court must decide, however, is whether these are reasons to secure the courtroom. The question is not whether to afford privacy to the plaintiffs but whether to afford plaintiffs a closed forum in which to disclose these facts.

*4 Although there is no case directly on this point, the present question comes fully within the holding of *Barron*, which thoroughly considered the competition between the people's interest in public courts and the personal interest in private facts. In effect, *Barron* raised the question of the role to be assigned to privacy in a system of public courts, and the majority resolved the issue by granting a narrow role to privacy based on considerations relating to the legitimate expectations of privacy.

In the Florida Supreme Court's well-developed privacy jurisprudence, the fundamental basis of the right of privacy is a legitimate expectation of privacy. Not every fact in every circumstance is private, and not every act of government violates

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the right to be let alone. The concept by which the court separates the appropriate from the inappropriate instance for invoking the privacy right is this expectation. *Stall* ■ *State*, 570 So.2d 257, 261 (Fla.1990). In order to establish a right of privacy, the individual must establish that "a reasonable expectation of privacy ... exist[s]." *Winfield* ■ *Division of Pari-Mutuel Wagering*, 477 So.2d 544, 547 (Fla.1985).

A right of privacy cannot attach when there is no expectation of privacy. Under our historic tradition of public courts, what reasonable expectation of privacy could a litigant possibly entertain? Concurring in *Barron*, Justice Erhlich would have conceded the litigant no reasonable expectation of privacy. He pointed out, "we have ... recognized that '[t]he potential for invasion of privacy is inherent in the litigation process.' *Rasmussen* ■ *South Florida Blood Service*, 500 So.2d 533, 535 (Fla.1987). While civil litigants may have a legitimate expectation of privacy in pretrial depositions and interrogatories which are not filed with the court (citations omitted), no such expectation exists in connection with civil proceedings and court files which historically have been open to the public. See *Forsberg* ■ *Housing Authority*, 455 So.2d 373, 375 (Fla.1984) (Overton, J., concurring) (there is traditionally no expectation of privacy in court files)." 531 So.2d at 120. Justice Erhlich shows the conflict between privacy and publicness. If the privacy interest were allowed unbounded scope, it would overcome the public nature of trials. Thus a system of public trials must insist that litigants abandon qualms about disclosure of private facts when they place them in contest in the court.

Without rejecting this view entirely, the majority nevertheless identified a limited scope of privacy within civil litigation. "We find that, under appropriate circumstances, the constitutional right of privacy established in Florida by the adoption of article I, section 23, could form a constitutional basis for closure under (e) or (f)." 531 So.2d at 118. The majority thus conceived of two instances in which a

reasonable expectation of privacy might be found.

*5 First, there is the privacy expectation of persons who are not parties to the case. Involuntary participants may have a reasonable claim of privacy. Thus under item (g), *Barron* recognizes that closure may be justified if the proponent carries the heavy burden of showing closure is necessary "to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]." 531 So.2d at 118.

Second, there is the more limited privacy expectation of a party. Again, the doctrine of legitimate expectation is applicable. Although a litigant has no right to expect privacy in matters involved in the case litigated in a public court, there may be matters extrinsic to the case with respect to which a litigant has a reasonable privacy claim. Under *Barron's* item (f), a proponent may be entitled to closure if he or she carries the burden of showing that closure is necessary "to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed." 531 So.2d at 118.

Barron rules out closure based on privacy interests of parties in the subject matter of the case itself. In recognizing a peripheral role for the privacy claims of civil litigants, the majority held there can be no privacy interest in that which is inherent in the case. Because litigation in a public court system involves an inherent tendency to invade privacy, a litigant has no reasonable expectation of privacy in the subject matter of a case. This must be so if, as *Barron* soundly affirms, there is to be a system of open courts in Florida.

Applying this standard in *Barron*, the court determined the medical history in question should not be sealed because it was inherent in the case. "Although generally protected by one's privacy right, medical reports and history are no longer protected when the medical condition becomes an integral part of the civil proceeding, particularly

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when the condition is asserted as an issue by the party seeking closure.... [M]edical information is an inherent part of these proceedings and cannot be utilized as a proper basis for closure." 531 So.2d at 119.

The same is true in this case. Those private facts which form the basis of the motion for closure are the facts inherent in the plaintiffs' case. Nevertheless, plaintiffs argue their request implicates the competing interests *Barron* listed in item (a) dealing with public policy, item (c), dealing with privacy of third party, and item (f), dealing with privacy of a party.

Plaintiffs first argue that closure of the trial is necessary under item (a) "to comply with established public policy set forth in the constitution, statutes, rules, or case law." 531 So.2d at 118. Plaintiffs rightly contend "[t]he State of Florida has long recognized, as a matter of public policy, the need to protect minors who come into contact with the justice system," and cite statutory provisions exempting records of sex crimes and child abuse from public records disclosure and providing for closure of adoption and dependency proceedings. See *Fla.Stat.* §§ 119.07(h); 63.162; 39.408(c).

*6 To be sure, it is public policy to protect minor victims of sex crimes from unnecessary public exposure. The cited exceptions to public records laws illustrate this as does the practice of anonymous pleading.

However, state policy neither requires nor permits closure of public trials on the basis of the privacy interests of minor victims of sex crimes. The trial of the perpetrator of a sex crime against a minor must be conducted in public as a matter of Florida common law.^{FN2} Under *Fla.Stat.*, § 918.16, the court has a certain ability to clear the courtroom during testimony of a person under the age of 16, but the press specifically may not be excluded.^{FN3} A recent statute protecting minor witnesses does not purport to authorize closure of the trial to protect minor witnesses.^{FN4} When the state prosecutes the

parent of a minor child for sexual abuses practiced on the child, the trial is not closed nor is there suppression of the identity of the parent from which, as plaintiffs argue here, the identity of the child is readily inferred.^{FN5} Indeed, from the reports of tort suits by minor victims of sexual crimes seeking damages from the perpetrator or those vicariously liable, it can be seen that the courts of this state conduct cases like the present as open public trials in the name of the party.^{FN6}

FN2. *Bundy* v. *State*, 455 So.2d 330 (Fla.1984), cert. denied, 476 U.S. 1109 (1986). *Miami Herald Publishing Co.* v. *Lewis*, 426 So.2d 1 (Fla.1982). See also *Globe Newspaper Company* v. *Superior Court*, 102 S.Ct. 2613 (1982) (Same under First Amendment).

FN3. See *Palm Beach Newspapers* v. *Nourse*, 413 So.2d 467 (Fla. 4th DCA 1982) (Error to summarily exclude press from arraignment of defendant charge with lewd and lascivious act on child under age 14); *News-Press Pub.* v. *Shearer*, 5 Med.L.Rptr. 1272 (Fla. 2d DCA 1979) (Error to exclude press from courtroom while juvenile witness in sex crime testimony and error to seal record from press). Compare *Miami Herald Pub. Co.* v. *Morphonios*, 467 So.2d 1026 (Fla.1985) (Error to gag press from publishing testimony of minor witness via prerecorded video) and *Thornton* v. *State*, 585 So.2d 1189 (Fla. 2d DCA 1991) (Statute cannot override defendant's Sixth Amendment right to public trial without case-by-case balancing test). See also *Doe* v. *Doe*, 567 So.2d 1002 (Fla. 4th DCA 1990) (Affirming denial of motion to close proceedings in which mother seeks authority for surgical sterilization of mentally handicapped daughter).

FN4. *Fla.Stat.* § 92.55 (Authorizing the court to permit or prohibit "the attendance

of any person at the proceeding") (emphasis supplied).

FN5. See, e.g., *Schmidt v. State*, 590 So.2d 404 (Fla.1991) (Father prosecuted for crime of video recording of minor daughter in violation of statute concerning depiction of sex acts); *Sanders v. State*, 568 So.2d 1014 (Fla. 3d DCA 1990) (Father prosecuted for lewd and lascivious acts against minor daughter).

FN6. See, e.g., *Zordan v. Page*, 500 So.2d 608 (Fla. 2d DCA 1987) (Suit by minor and parents against carrier for damages incurred when insured fondled private parts of minor plaintiff); *Hennagan v. Department of Highway Safety and Motor Vehicles*, 467 So.2d 748 (Fla. 1st DCA 1985) (suit by minor and parents against FHP for damages when minor driver was allegedly sexually abused by patrolmen after being stopped on pretext of suspicion); *Drake v. Island Community Church, Inc.*, 462 So.2d 1142 (Fla. 3d DCA 1985) (Suit by minor and parents for damages from sexual abuse by teacher on minor pupil). *Compare Freehauf v. School Board of Seminole County*, 623 So.2d 761 (Fla. 5th DCA) *cause dismissed*, 629 So.2d 132 (Fla.1994) (Suit for abuse inflicted on son by stepmother; failure to report suspected abuse by school); *Fischer v. Metcalf*, 543 So.2d 785 (Fla. 3d DCA 1989) (Suit by minors against psychologist for damages from abusive father when suspicion of abuse was not reported).

The court concludes that it is not necessary to close this trial in order to comply with any public policy of the State of Florida.

The plaintiffs next argue that closure is necessary to serve the interest of innocent third parties whose privacy warrants closure under item (e) of *Barron*. The plaintiffs assert that each minor in this consol-

idated cause is a third party as to the other three actions and thus the trial should be closed to protect them as third parties in the consolidated cases. Having voluntarily joined to bring the action, they cannot claim to be third parties to the action nor assert a legitimate expectation of privacy in the disclosures that necessarily follow from their decision to act in concert.

Plaintiffs also assert the privacy interest of other minors who were victims of this same abuse but who have not joined in this suit. There is no evidence that trial of this case would implicate these third parties. In any event, plaintiffs lack standing to assert the interest of these third parties, and the Court will not decide any issue affecting their rights unless a party with standing raises the issue.

Finally, plaintiffs attempt to bring their motion under item (f) relating to the privacy interest of a party. To be entitled to an order of closure under this item, however, plaintiffs must show that closure is necessary "to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right *not generally inherent in the specific type of civil proceeding* sought to be closed." 531 So.2d at 119.(emphasis added). Plaintiffs argue their identities are not inherent facts in the case and thus the trial should be closed to prevent revelation of the identity. However, plaintiffs also contend it will be impossible to try the case without revelation of their names. Their argument refutes itself. The identity of a party is inherent in the case, and that concern alone could not justify total closure. This argument is a proxy for the ineffective argument that the sensitive nature of inherent private facts should justify a private forum. Facts regarding abuse form the core of their case, and thus it "is an inherent part of these proceedings and cannot be utilized as a proper basis for closure." 531 So.2d at 119. The decision to litigate this issue is tantamount to a decision to place the information before the public.

*7 As sympathetic as their claim is, it fails to state a cognizable reason for closure under the law. The

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request to close a civil trial because of a party's disclosural concerns with facts inherent in the cause cannot be reconciled with *Barron*. Facts generally protected by a party's privacy right are no longer protected from disclosure when they become an integral part of a civil proceeding. Indeed, plaintiffs' argument for a private forum could be asserted as the basis for a wide array of exceptions that would swallow up the presumption of openness. "The ... argument based on this interest therefore proves too much. [T]hat same interest could be relied upon to support an array of mandatory closure rules ... proves too much, and runs contrary to the very foundation of the right of access...." *Globe Newspaper Company* ■ *Superior Court*, 102 S.Ct. 2613, 2622 (1982).

Accordingly, having considered the briefs and arguments of counsel for the reasons set forth in this opinion, it is ORDERED that the Motion to Close Trial be denied.

DONE AND ORDERED.

Fla.Cir.Ct.,1994.

John Doe-1 Through John Doe-4 ■ Museum of Science and History of Jacksonville, Inc.

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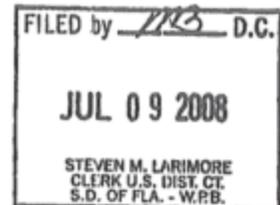
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA/JOHNSON

IN RE: JANE DOE,

Petitioner.



GOVERNMENT'S RESPONSE TO VICTIM'S EMERGENCY PETITION
FOR ENFORCEMENT OF CRIME VICTIM RIGHTS ACT, 18 U.S.C. § 3771

The United States of America, by and through its undersigned counsel, files its Response to Victim's Emergency Petition for Enforcement of Victim Rights Act, 18 U.S.C. § 3771, and states:

I. THERE IS NO "COURT PROCEEDING" UNDER 18 U.S.C. § 3771(b)

Petitioner complains that she has been denied her rights under the Crime Victims Rights Act, 18 U.S.C. § 3771. In the emergency petition filed by the victim, she alleges the Government has denied her rights since she has received no consultation with the attorney for the government regarding possible disposition of the charges (18 U.S.C. § 3771(a)(5)); no notice of any public court proceedings (18 U.S.C. § 3771(a)(2)); no information regarding her right to restitution (18 U.S.C. § 3771(a)(6)); and no notice of rights under the Crime Victim Rights Act (CVRA) Emergency Petition, ¶ 5.

The instant case is unique in several respects. First, in 2006, Jeffrey Epstein was charged with felony solicitation of prostitution in the Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida. This charge was based upon the offenses alleged in paragraph 1 of the petition. Second, while Epstein has been under federal investigation, he has not been charged in

7/RB

the Southern District of Florida.

Title 18, U.S.C., Section 3771(b)(1) provides in pertinent part that, “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a).” There is no “court proceeding” in the instant case since Epstein has not been charged with violation of any federal statute. No federal grand jury indictment has been returned, nor has any criminal information been filed. There can thus be no failure of a right to notice of a public court proceeding or the right to restitution.

In her memorandum, petitioner relies upon In Re Dean, 527 F.3d 391 (5th Cir. 2008), where the Fifth Circuit held that the CVRA required the government to “confer in some reasonable way with the victims before ultimately exercising its broad discretion.” Id. at 395. In Dean, the government sought and obtained an ex parte order permitting it to negotiate a plea agreement with BP Products North America, without first consulting with the victims, individuals injured and survivors of those killed in a refinery explosion. A plea agreement was ultimately negotiated and the victims objected. The appellate court found that the CVRA granted a right to confer. However, the court declined to grant mandamus relief for prudential reasons, finding that the district court had the benefit of the views of the victims who chose to participate at the hearing held on whether the plea agreement should be accepted. Id. at 396.

Dean is legally distinguishable in several respects. For one thing, the court’s discussion of the scope of the right to confer was unnecessary because the court ultimately declined to issue mandamus relief. Dean, 527 F.3d at 395. Also, in offering its view that this right applies pre-charge, it is noteworthy that the court, in purporting to quote the statute, omitted the last three words of section 3771(a)(5)(“in the case”), words that arguably point in the opposite direction by

suggesting that the right applies post-charge. Further, the court went to great lengths to emphasize that its holding was limited to the particular circumstances presented in that case (i.e., the simultaneous filing of a plea agreement and formal charges), which of course, is not the case here. No federal charges have been filed in the instant case, and this case, unlike Dean, involves an agreement to defer federal prosecution in favor of prosecution by the State of Florida and not a guilty plea. Id. at 394. Finally, the Dean court expressly declined to “speculate on the [right to confer’s] applicability to other situations.” Id. Nothing in § 3771(a)(5) supports the petitioner’s claim that she had a right to be consulted before the Government could enter into a non-prosecution agreement which defers federal prosecution in exchange for state court resolution of criminal liability, and a significant concession on an element of a claim for compensation under 18 U.S.C. § 2255.

II. THE GOVERNMENT HAS USED ITS BEST EFFORTS TO COMPLY WITH 18 U.S.C. § 3771(a)

The Epstein case was investigated initially by the Palm Beach Police Department in 2006. Exhibit A, Declaration of Assistant United States Attorney [REDACTED] ¶ 2. Subsequently, the Palm Beach Police Department sought the assistance of the Federal Bureau of Investigation (FBI). Id. Throughout the investigation, when a victim was identified, victim notification letters were provided to the victim by both the FBI Victim-Witness Specialist and AUSA [REDACTED] Id., ¶ 3. Petitioner’s counsel, Brad Edwards, Esq., currently represents C.W., T.M., and S.R. The U.S. Attorney’s Office victim notification letter to C.W. was provided by the FBI, and the letter to T.M. was hand-delivered by AUSA [REDACTED] to her when she was interviewed in April 2007. FBI victim notification letters were mailed to C.W. and T.M. on

January 10, 2008, and to S.R. on May 30, 2008. Villafaña Decl., ¶ 3.

Throughout the investigation, AUSA [REDACTED] and the FBI's Victim-Witness Specialist had contact with C.W. [REDACTED] Decl., ¶ 4. Earlier in the investigation, T.M. was represented by James Eisenberg, Esq. Consequently, all contact with T.M. was made through Mr. Eisenberg.

In mid-2007, Epstein's attorneys approached the U.S. Attorney's Office in an effort to resolve the federal investigation. *Id.*, ¶ 5. At that time, Mr. Epstein had been charged by the State of Florida with solicitation of prostitution, in violation of Florida Statutes § 796.07. Mr. Epstein's attorneys sought a global resolution of this matter. The United States subsequently agreed to defer federal prosecution in favor of prosecution by the State of Florida, so long as certain basic preconditions were met. One of the key objectives for the Government was to preserve a federal remedy for the young girls whom Epstein had sexually exploited. Thus, one condition of that agreement, notice of which was provided to the victims on July 9, 2008, is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

The Attorney General Guidelines for Victim and Witness Assistance (May 2005), Article

IV, Services to Victims and Witnesses, provides the following guidance for proposed plea agreements:

(3) Proposed Plea Agreements. Responsible officials should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations. In determining what is reasonable, the responsible official should consider factors relevant to the wisdom and practicality of giving notice and considering views in the context of the particular case, including, but not limited to, the following factors:

- (a) The impact on public safety and risks to personal safety.
- (b) The number of victims.
- (c) Whether time is of the essence in negotiating or entering a proposed plea.
- (d) Whether the proposed plea involves confidential information or conditions.
- (e) Whether there is another need for confidentiality.
- (f) Whether the victim is a possible witness in the case and the effect that relaying any information may have on the defendant's right to a fair trial.

Throughout negotiations, Epstein's attorneys claimed that one reason victims came forward and pressed their claims was their desire for money. They argued that victims might have an inducement to fabricate or enhance their testimony, in order to maximize their opportunities to obtain financial recompense. [REDACTED] Decl., ¶ 8. The Government was extremely concerned that disclosure of the proposed terms would compromise the investigation by providing Epstein the means of impeaching the victim witnesses, should the parties fail to reach an agreement. In light of the fact (i) that the United States agreed to defer prosecution to a previously filed state criminal case; (ii) that as a result sentencing would take place in state court before a state judge; (iii) that if the state resolution failed to meet minimum standards such that a federal prosecution was warranted, the victims would be witnesses and thus potential

impeachment issues were of concern; and (iv) the United States was already making efforts to secure for victims the right to proceed federally under 18 U.S.C. § 2255 even if prosecution took place in state court, the Government determined that its actions in proceeding with this agreement best balanced the dual position of the Jane Does as both victims and potential witnesses in a criminal proceeding.

On Friday, June 27, 2008, at approximately 4:15 p.m., AUSA [REDACTED] received a copy of the proposed state plea agreement, and learned that Epstein's state plea hearing was scheduled for Monday, June 30, 2008, at 8:30 a.m. [REDACTED] ecl., ¶ 10. AUSA Villafaña and the Palm Beach Police Department attempted to provide notification to victims in the short time that they had. Id. Although all known victims were not notified, AUSA [REDACTED] did call attorney Edwards to provide notice to his clients regarding the hearing. AUSA [REDACTED] did this, even though she had no obligation to provide notice of a state court hearing. Mr. Edwards advised that he could not attend but that someone would be present at the hearing. Id.

The Government has complied with 18 U.S.C. § 3771(c)(1) by using its best efforts to "see that crime victims are notified of, and accorded, the rights described in subsection (a)." Specifically, petitioner was afforded the reasonable right to confer with the attorney for the Government under 18 U.S.C. § 3771(a)(5). Disclosure of the specific terms of the negotiation were not disclosed prior to a final agreement being reached because the Government believed doing so would jeopardize and prejudice the prosecution in the event an agreement could not be made. Further, although 18 U.S.C. § 3771(a)(2) does not apply to state court proceedings, the government nonetheless notified petitioner's counsel on June 27, 2008, of the plea hearing in state court on June 30, 2008.

Section 3771(d)(6) provides, in relevant part, that “[n]othing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.” The Government exercised its judgment and discretion in determining that there was a need for confidentiality in the negotiations with Epstein. The significant benefit of obtaining Epstein’s concession that victims suing him under 18 U.S.C. § 2255(a) were “victims” of the enumerated offenses, despite the fact he has not been convicted in federal court, was of sufficient importance to justify confidentiality of the negotiations.

III. THE GOVERNMENT’S DISCUSSIONS WITH T.M., C.W., AND S.R.

Attorney Brad Edwards has advised the Government that he represents T.M., C.W., and S.R. Victim letters were provided to all three individuals. The letters to C.W. and T.M. were forwarded on January 10, 2008. [REDACTED] Decl., ¶ 3. On May 28, 2008, S.R.’s status as a victim was confirmed when she was interviewed by federal agents. Id. The FBI Victim Witness specialist sent her a letter on May 30, 2008. Id.

When the agreement was signed in September 2007, T.M. was openly hostile to a prosecution of Epstein, and S.R. had refused to speak with federal investigators. Id., ¶ 7. While individual victims were not consulted regarding the agreement, none of Mr. Edwards’ clients had expressed a desire to be consulted prior to the resolution of the federal investigation. Id.

In October 2007, C.W. was not represented by counsel. Id., ¶ 8. She was given telephonic notice of the agreement, as were three other victims. Id. These four individuals were also given notice of an expected change of plea, in state court, in October 2007.

In mid-June 2008, Mr. Edwards contacted AUSA [REDACTED] to advise that he represented C.W. and S.R., and requested a meeting. Id., ¶ 9. AUSA [REDACTED] asked Mr. Edwards to send

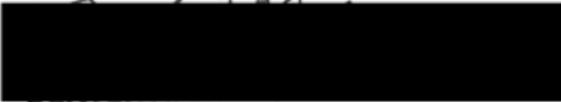
to her any information that he wished her to consider. Nothing was provided. Id. AUSA

 also told Mr. Edwards he could contact the State Attorney's Office, if he wished. To her knowledge, Mr. Edwards did not make the contact.

The Government has acted reasonably in keeping T.M, C.W., and S.R. informed. Petitioner's rights under the CVRA have not been violated. Therefore, her emergency petition should be denied.

Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: 

Assistant U.S. Attorney


Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via facsimile transmission and U.S. Mail, this 7th day of July, 2008, to: Brad Edwards, Esq., The Law

Offices of Brad Edwards & Associates, LLC, 



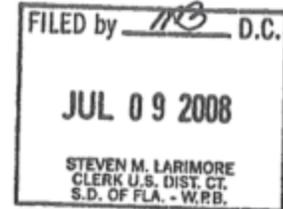
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

IN RE: JANE DOE,

Petitioner.



DECLARATION OF A [REDACTED]
IN SUPPORT OF UNITED STATES' RESPONSE
TO VICTIM'S EMERGENCY PETITION FOR ENFORCEMENT
OF CRIME VICTIM RIGHTS ACT, 18 U.S.C. § 3771

1. I, [REDACTED], do hereby declare that I am a member in good standing of the Bar of the State of Florida. I graduated from the University of California at Berkeley School of Law (Boalt Hall) in 1993. After serving as a judicial clerk to the Hon. David F. Levi in Sacramento, California, I was admitted to practice in California in 1995. I also am admitted to practice in all courts of the states of Minnesota and Florida, the Eighth, Eleventh, and Federal Circuit Courts of Appeals, and the U.S. District Courts for the Southern District of Florida, the District of Minnesota, and the Northern District of California. My bar admission status in California and Minnesota is currently inactive. I am currently employed as an Assistant United States Attorney in the Southern District of Florida and was so employed during all of the events described herein.

S/AB

2. I am the Assistant United States Attorney assigned to the investigation of Jeffrey Epstein. The case was investigated by the Federal Bureau of Investigation ("FBI"). The federal investigation was initiated in 2006 at the request of the Palm Beach Police Department ("PBPD") into allegations that Jeffrey Epstein and his personal assistants had used facilities of interstate commerce to induce young girls between the ages of thirteen and seventeen to engage in prostitution, amongst other offenses.

3. Throughout the investigation, when a victim was identified, victim notification letters were provided to her both from your Affiant and from the FBI's Victim-Witness Specialist. Attached hereto are copies of the letters provided to Bradley Edwards' three clients, T.M., C.W., and S.R.¹ Your Affiant's letter to C.W. was provided by the FBI. (Ex. 1). Your Affiant's letter to T.M. was hand-delivered by myself to T.M. at the time that she was interviewed (Ex. 2).² Both C.W. and T.M. also received letters from the FBI's Victim-Witness Specialist, which were sent on January 10, 2008 (Exs. 3 & 4). S.R. was identified via the FBI's investigation in 2007, but she initially refused to speak with investigators. S.R.'s status as a victim of a federal offense was confirmed when she was interviewed by

¹Attorney Edwards filed his Motion on behalf of "Jane Doe," without identifying which of his clients is the purported victim. Accordingly, I will address facts related to C.W., T.M., and S.R. All three of those clients were victims of Jeffrey Epstein's while they were minors beginning when they were fifteen years old.

²Please note that the dates on the U.S. Attorney's Office letters to C.W. and T.M. are not the dates that the letters were actually delivered. Letters to all known victims were prepared early in the investigation and delivered as each victim was contacted.

federal agents on May 28, 2008. The FBI's Victim-Witness Specialist sent a letter to S.R. on May 30, 2008 (Ex. 5).

4. Throughout the investigation, the FBI agents, the FBI's Victim-Witness Specialist, and your Affiant had contact with C.W. and S.R. Attorney Edwards' other client, T.M., was represented by counsel and, accordingly, all contact with T.M. was made through that attorney. That attorney was James Eisenberg, and his fees were paid by Jeffrey Epstein, the target of the investigation.³

5. In the summer of 2007, Mr. Epstein and the U.S. Attorney's Office for the Southern District of Florida ("the Office") entered into negotiations to resolve the investigation. At that time, Mr. Epstein had been charged by the State of Florida with solicitation of prostitution, in violation of Florida Statutes § 796.07. Mr. Epstein's attorneys sought a global resolution of the matter. The United States subsequently agreed to defer federal prosecution in favor of prosecution by the State of Florida, so long as certain basic preconditions were met. One of the key objectives for the Government was to preserve a federal remedy for the young girls whom Epstein had sexually exploited. Thus, one condition of that agreement, notice of which was provided to the victims on July 9, 2008, is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

³The undersigned does not know when Mr. Edwards began representing T.M. or whether T.M. ever formally terminated Mr. Eisenberg's representation.

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

6. An agreement was reached in September 2007. The Agreement contained an express confidentiality provision.

7. Although individual victims were not consulted regarding the agreement, several had expressed concerns regarding the exposure of their identities at trial and they desired a prompt resolution of the matter. At the time the agreement was signed in September 2007, T.M. was openly hostile to the prosecution of Epstein. The FBI attempted to interview S.R. in October 2007, at which time she refused to provide any information regarding Jeffrey Epstein. None of Attorney Edwards' clients had expressed a desire to be consulted prior to the resolution of the federal investigation.

8. As explained above, one of the terms of the agreement deferring prosecution to the State of Florida was securing a federal remedy for the victims. In October 2007, shortly after the agreement was signed, four victims were contacted and these provisions were discussed. One of those victims was C.W. who at the time was not represented, and she was given notice of the agreement. Notice was also provided of an expected change of plea in October 2007. When Epstein's attorneys learned that some of the victims had been

notified, they complained that the victims were receiving an incentive to overstate their involvement with Mr. Epstein in order to increase their damages claims. While your Affiant knew that the victims' statements had been taken and corroborated with independent evidence well before they were informed of the potential for damages, the agents and I concluded that informing additional victims could compromise the witnesses' credibility at trial if Epstein reneged on the agreement.

9. After C.W. had been notified of the terms of the agreement, but before Epstein performed his obligations, C.W. contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Your Affiant secured pro bono counsel to represent C.W. and several other identified victims. Pro bono counsel was able to assist C.W. in avoiding the improper deposition. That pro bono counsel did not express to your Affiant that C.W. was dissatisfied with the resolution of the matter.

10. In mid-June 2008, Attorney Edwards contacted your Affiant to inform me that he represented C.W. and S.R. and asked to meet to provide me with information regarding Epstein. I invited Attorney Edwards to send to me any information that he wanted me to consider. Nothing was provided. I also advised Attorney Edwards that he should consider contacting the State Attorney's Office, if he so wished. I understand that no contact with that office was made. Attorney Edwards had alluded to T.M., so I advised him that, to my knowledge, T.M. was still represented by Attorney James Eisenberg.

11. On Friday, June 27, 2008, at approximate 4:15 p.m., your Affiant received a copy of the proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., Monday, June 30, 2008. Your Affiant and the Palm Beach Police Department attempted to provide notification to victims in the short time that Epstein's counsel had given us. Although all known victims were not notified, your Affiant specifically called attorney Edwards to provide notice to his clients regarding the hearing. Your Affiant believes that it was during this conversation that Attorney Edwards notified me that he represented T.M., and I assumed that he would pass on the notice to her, as well. Attorney Edwards informed your Affiant that he could not attend but that someone would be present at the hearing. Your Affiant attended the hearing, but none of Attorney Edwards' clients was present.

12. On today's date, your Affiant provided the attached victim notifications to C.W. and S.R. via their attorney, Bradley Edwards (Exs. 6 & 7). A notification was not provided to T.M. because the U.S. Attorney's modification limited Epstein's liability to victims whom the United States was prepared to name in an indictment. In light of T.M.'s prior statements to law enforcement, your Affiant could not in good faith include T.M. as a victim in an indictment and, accordingly, could not include her in the list provided to Epstein's counsel.

13. Furthermore, with respect to the Certification of Emergency, Attorney Edwards did not ever contact me prior to the filing of that Certification to demand the relief that he requests in his Emergency Petition. On the afternoon of July 7, 2008, after your Affiant had

already received the Certification of Emergency and Emergency Petition, I received a letter from Attorney Edwards that had been sent, via Certified Mail, on July 3, 2008. While that letter urges the Attorney General and the United States Attorney to consider "vigorous enforcement" of federal laws with respect to Jeffrey Epstein, it contains no demand for the relief requested in the Emergency Petition.

14. I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and belief.

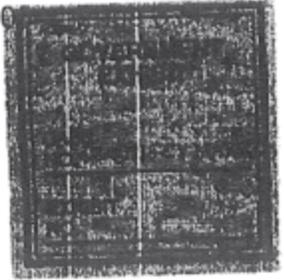
Executed this 9th day of July, 2008.





U.S. Department of Justice

United States Attorney
Southern District of Florida



500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

June 7, 2007

DELIVERY BY HAND

Miss C [REDACTED] W [REDACTED]

Re: Crime Victims' and Witnesses' Rights

Dear Miss W [REDACTED]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [REDACTED] or Special Agent [REDACTED] from the Federal Bureau of Investigation at [REDACTED]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. [REDACTED]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

MISS C [REDACTED] W [REDACTED]
JUNE 7, 2007
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [REDACTED] myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [REDACTED] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

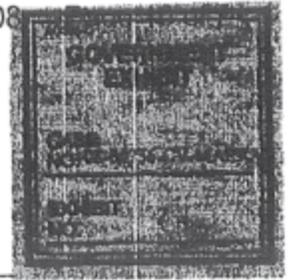
[REDACTED]
A. Marie Viratana
Assistant United States Attorney

cc: Special Agent [REDACTED] F.B.I.



U.S. Department of Justice

United States Attorney
Southern District of Florida



500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

August 11, 2006

DELIVERY BY HAND

Miss [REDACTED]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [REDACTED]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [REDACTED] or Special Agent [REDACTED] from the Federal Bureau of Investigation at [REDACTED]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [REDACTED]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

MIS: [REDACTED]
AUGUST 11, 2006
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you are also entitled to restitution from the perpetrator. A list of counseling and medical service providers will be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [REDACTED] or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to them or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [REDACTED] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By: [REDACTED]

Assistant United States Attorney

cc: Special Agent [REDACTED] F.B.I.



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

January 10, 2008



Re: Case Number: [REDACTED]

Dear [REDACTED]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [REDACTED] and Personal Identification Number (PIN) [REDACTED] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is W [REDACTED]



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Victim Specialist



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

January 10, 2008

James Eisenberg
One Clearlake Center Ste 704 Australian South
West Palm Beach, FL 33401

Re: [REDACTED]

Dear James Eisenberg:

You have requested to receive notifications for [REDACTED]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [REDACTED] and Personal Identification Number (PIN) [REDACTED] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is Eisenberg.



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

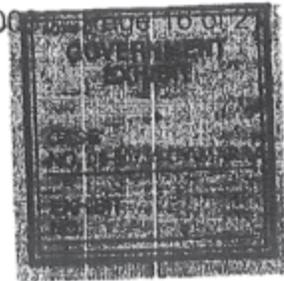
Sincerely,



Victim Specialist



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970



May 30, 2008

[Redacted]

Re: [Redacted]
De: [Redacted]

Your name was referred to the FBI's Victim Assistance Program as being a possible victim of a federal crime. We appreciate your assistance and cooperation while we are investigating this case. We would like to make you aware of the victim services that may be available to you and to answer any questions you may have regarding the criminal justice process throughout the investigation. Our program is part of the FBI's effort to ensure the victims are treated with respect and are provided information about their rights under federal law. These rights include notification of the status of the case. The enclosed brochures provide information about the FBI's Victim Assistance Program, resources and instructions for accessing the Victim Notification System (VNS). VNS is designed to provide you with information regarding the status of your case.

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [Redacted] and Personal Identification Number (PIN) [Redacted] every time you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is R [Redacted]

[Redacted]

[Redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Victim Specialist



U.S. Department of Justice

United States Attorney
Southern District of Florida

AG-88-C
GOVERNMENT EXHIBIT
CASE NO. 08-80736-CV-MARRA
EXHIBIT NO. 6

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 9, 2008

VIA FACSIMILE

Brad Edwards, Esq.
The Law Offices of Brad Edwards & Associates, LLC



Re: Jeffrey Epstein [REDACTED]: NOTIFICATION OF
IDENTIFIED VICTIM

Dear Mr. Edwards:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, [REDACTED]

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control 1, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

BRAD EDWARDS, ESQ.
NOTIFICATION OF IDENTIFIED VICTIM C [REDACTED] W [REDACTED]
JULY 9, 2008
PAGE 2 OF 2

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that your client, C [REDACTED] W [REDACTED] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, [REDACTED]

Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents [REDACTED] for the health and well-being of Ms. [REDACTED]

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: [REDACTED]

ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.



U.S. Department of Justice

United States Attorney
Southern District of Florida

AD089-G	
GOVERNMENT EXHIBIT	
CASE NO.	08-80736-CV-MARRA
EXHIBIT NO.	7

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 9, 2008

VIA FACSIMILE

Brad Edwards, Esq.

The Law Offices of Brad Edwards & Associates, LLC



Re: Jeffrey Epstein [REDACTED] NOTIFICATION OF IDENTIFIED VICTIM

Dear Mr. Edwards:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, [REDACTED]

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control I, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

BRAD EDWARDS, ESQ.
NOTIFICATION OF IDENTIFIED VICTIM S [REDACTED]
JUL 9, 2008
PAGE 2 OF 2

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that your client, S [REDACTED] R [REDACTED] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, [REDACTED]

Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents [REDACTED] for the health and well-being of Ms. [REDACTED]

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: [REDACTED]

ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80811-CIV-ZLOCH/SNOW

C.M.A.,

Plaintiff,

vs.

JEFFREY EPSTEIN and
[REDACTED]

Defendants.

FILED UNDER SEAL*

Sealed

FILED by [Signature] D.C.
JUL 25 2008
STEVEN M. LARIMORE
CLERK U.S. DIST CT
S.D. OF FLA. MIAMI

**DEFENDANTS JEFFREY EPSTEIN AND
[REDACTED] MOTION FOR STAY**

* This motion is filed under seal because the deferred-prosecution agreement between the United States Attorney's Office (by Assistant U.S. Attorney [REDACTED] Esq.) and Mr. Epstein, discussed herein, contains a confidentiality clause.

Lewis Tein
ATTORNEYS AT LAW

3059 GRAND AVENUE, SUITE 340, COCONUT GROVE, FLORIDA 33133

[Handwritten signature]

Defendants Jeffrey Epstein and [REDACTED] respectfully move for a mandatory stay of this action under Title 18, United States Code, Section 3509(k), Section 1595(b)(1), and alternatively, under this Court's discretionary authority to stay civil litigation, based on the existence of a pending federal criminal action.

Introduction

This lawsuit arises from a pending federal criminal action concerning, among other things, an alleged assault of the plaintiff Jane Doe, who, according to her complaint, on "numerous occasions" provided "massages" to Epstein with "no credentials to provide massage therapy" and was "sometimes paid . . . for the 'sessions'." Compl., ¶¶ 6, 11. A federal statute directly on point provides that when a civil suit alleging damages to a minor victim arises out of the same occurrence as a "criminal action," the civil suit "*shall be stayed* until the end of *all* phases of the criminal action." 18 U.S.C. § 3509(k) (emphasis added).¹

¹ The full text of the mandatory-stay provision reads:

If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

18 U.S.C. § 3509(k).

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Lewis Tein P.A.
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Accordingly, a stay of this case is mandatory until the criminal action arising from the same allegations is no longer pending.

The Pending Federal Criminal Action

In 2006, a Florida state grand jury indicted Jeffrey Epstein on allegations similar to those in the instant action (*State of Florida v. Jeffrey Epstein*, Case No. 2006 CF 09454A, Fifteenth Judicial Circuit, Palm Beach County) (the "Florida Criminal Action"). Shortly thereafter, the United States Attorney's Office for the Southern District of Florida (the "USAO") began a federal grand-jury investigation into allegations arising out of the same incidents alleged in the instant action (Grand Jury No. 07-103 (WPB), United States District Court for the Southern District of Florida) ("the Federal Criminal Action").

In September 2007, the USAO and Mr. Epstein entered into a highly unusual and unprecedented deferred-prosecution agreement (the "Agreement"), in which the USAO agreed to *defer* (not dismiss or close) the Federal Criminal Action *on the condition that* Mr. Epstein continue to comply with numerous obligations, the first of which was pleading guilty to certain state charges in the Florida Criminal Action. The Agreement itself uses the term "*deferred*" (rather than "dismissed" or "closed") to describe the status of the Federal Criminal Action:

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida prosecution in this District, for these offenses shall be deferred in favor of prosecution by

the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement

Agreement, at 2.

By no stretch did the USAO finalize, close, complete, dismiss or abandon the Federal Criminal Action. Indeed, as the lead federal prosecutor recently explained, the USAO merely “agreed to *defer* federal prosecution in favor of prosecution by the State of Florida” See *In re: Jane Doe*, Case No. 08-80736-CIV-Marra/Johnson (S.D. Fla.) (D.E. 14), Decl. of AUSA Villafana, 07/09/08, ¶ 5, attached hereto as Exhibit “A” (emphasis added). Under the Agreement, the USAO presently retains the continuing right to indict Mr. Epstein - or to unseal “any” already-existing federal “charges” that may already have been handed up by the federal grand jury and sealed - - should he breach any of its provisions. Agreement, at 2.

The period of the deferral continues until three months after Mr. Epstein completes service of his sentence in the Florida Criminal Action. *Id.* Indeed, the final three months of the Agreement’s term constitute an extended period during which the USAO expressly retains the ability to evaluate whether Epstein committed any breaches of his numerous obligations under the agreement while he was serving his state sentence, and, if it so determines, reserves the right to indict

(or unseal an existing indictment against) Mr. Epstein - - even after he has completed serving his entire state sentence.

The Agreement further provides that upon Epstein's execution of a plea agreement in the State Criminal Case, the Federal Criminal Action "will be suspended" and all pending grand-jury subpoenas "*will be held in abeyance* unless and until the defendant violates any term of this agreement." Agreement, at 5 (emphasis added). The Agreement directs the USAO and Epstein to "*maintain their evidence*, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued," and to maintain such evidence "inviolate." *Id.* (emphasis added). It also expressly provides that the grand-jury subpoenas continue to remain "*outstanding*" until "*the successful completion* of the terms of this agreement." *Id.* (emphasis added).

Further, it includes a promise not to prosecute movant/defendant [REDACTED] only if "Epstein successfully fulfills all of the terms and conditions of th[e] agreement." *Id.*

Finally, the Agreement provides that the USAO's declination of prosecution for certain enumerated offenses and dismissal of any existing (sealed) charges *will not occur until 90 days following the completion of his state sentence:*

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the

United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of [sic] giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein, if any, will be dismissed.

Agreement, at 2.

Consistent with the Agreement and its position that the Federal Criminal Action continues to remain pending, the USAO recently sent letters to attorneys for people that the USAO has designated as "victims." In those letters, the USAO asked, "[I]f you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned [AUSA]." See Decl. of AUSA Villafana, Exhs. 6 & 7, at 2 (July 9, 2008). The clear implication of the USAO's request (by which the USAO appears to involve itself in the instant litigation, despite advising the recipients that it cannot "take part in or otherwise assist in civil litigation," *id.* at 2), is that the USAO believes that such denial might breach the Agreement.

Accordingly, the Federal Criminal Action remains “pending.”

Discussion

I. Section 3509(k) Imposes a Mandatory Stay.

The language of Title 18, United States Code, Section 3509(k) is clear and mandatory: a parallel “civil action *shall be stayed* until the end of all phases of the criminal action.” 18 U.S.C. § 3509(k) (emphasis added). The word “*shall*” means that the statute’s command is mandatory and not subject to a Court’s discretion. *See, e.g., Lopez* ■ *Davis*, 531 U.S. 230, 241 (2001) (noting Congress’ “use of a mandatory ‘shall’ to impose *discretionless obligations*”) (emphasis added); *Lexecon Inc.* ■ *Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998) (explaining that “the mandatory ‘shall’ . . . normally creates an obligation *impervious to judicial discretion*”) (emphasis added). *Cf. Miller* ■ *French*, 530 U.S. 327, 350 (2000) (construing the litigation-stay provision of the Prison Litigation Reform Act, holding, “Through the PLRA, Congress clearly intended to make operation of the automatic stay *mandatory*, precluding courts from exercising their equitable powers to enjoin the stay. And we conclude that this provision does not violate separation of powers principles.”) (emphasis added).

One District Court within the Eleventh Circuit recently construed “the plain language of § 3509(k)” as “*requir[ing] a stay* in a case . . . where . . . a parallel criminal action [is] pending.” *Doe* ■ *Francis*, No. 5:03 CV 260, 2005 WL 950623,

at *2 (N.D. Fla. Apr. 20, 2005) (*Francis II*) (emphasis added). *Accord Doe* ■
Francis, No. 5:03 CV 260, 2005 WL 517847, at *1-2 (N.D. Fla. Feb. 10, 2005)
(*Francis I*) (staying federal civil action in favor of “a criminal case currently
pending in state court in Bay County, Florida, arising from the same facts and
involving the same parties as the Instant action,” noting that “the language of 18
U.S.C. § 3509(k) is clear that *a stay is required* in a case such as this where a
parallel criminal action is pending which arises from the same occurrence
involving minor victims”) (emphasis added). There is no contrary opinion from
any court.

In determining that the federal stay provision is mandatory, the *Francis II*
court expressed that there was apparently no case law supporting, or even
“discussing the [avoidance] of a stay [under the command of] § 3509(k).” *Francis*
II, 2005 WL 950623, at *2. Deferring to the statute as written, the *Francis II* court
rejected the plaintiffs’ argument that some of the alleged victims had already
reached their majority. *See id.* The court similarly rejected the plaintiffs’
argument that it would be in the victims’ best interests to avoid a stay so as to
counteract the victims’ “ongoing and increasing mental harm due to the ‘frustrating
delay in both the criminal case and [the civil] case.’” *Id.*

II. Section 3509(k) Applies to Investigations, Not Just Indictments.

While there is no unsealed indicted criminal case against Mr. Epstein, the government's criminal investigation against him remains open. Section 3509(k) clearly applies to stay civil cases during the pendency, not only of indicted criminal cases, but also of pre-indictment criminal investigations.

The term "criminal action" is not expressly defined in § 3509(k). It is defined, however, by a closely related statute. Title 18, U.S.C. § 1595 provides a civil remedy for "forced labor" and "sex trafficking" violations, but stays such actions "during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim."² In enacting § 1595, Congress

² The full text of that statute provides:

§ 1595. Civil remedy

- (a) An individual who is a victim of a violation of section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.
- (b)
 - (1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.
 - (2) In this subsection, a "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.

18 U.S.C. § 1595.

specifically intended that the term “criminal action” would be applied extremely broadly. Accordingly, Congress took pains to ensure that courts would give it the broadest possible construction and, for that reason, specified in the definition provision that “criminal action” also “includes investigation.” 18 U.S.C. § 1595(b)(2). The only reported decision addressing this provision interpreted it according to its plain language. *See Ara Khan*, No. CV 07-1251, 2007 WL 1726456, *2 (E.D.N.Y. June 14, 2007) (ordering “all proceedings in this case stayed pending the conclusion of the government’s criminal investigation of the defendants and of *any* resulting criminal prosecution”) (emphasis added).

Given that the USAO’s Agreement with Epstein indicates that:

- the grand-jury’s subpoenas remain “outstanding” (Agreement, at 5);
- the subpoenas are “h[e]ld . . . in abeyance” (*id.*);
- the subpoenas are not “withdrawn” (*id.*);
- the parties must “maintain their evidence” (*id.*) (which would be entirely unnecessary if the investigation against Epstein were closed);
- “any” existing “charges” will *not* “**be dismissed**” *until after* Epstein has “timely fulfill[ed] all the terms and conditions of the Agreement” (*id.* at 2) (emphasis added); and
- “prosecution in this District . . . shall be **deferred**” (*id.*) (but not closed or dismissed) - -

then the only reasonable conclusion is that the Federal Criminal Action remains “pending.”

The ordinary meaning of the adjective “pending” is “[r]emaining undecided; awaiting decision” *Black’s Law Dictionary* 1154 (8th ed. 2004).³ See also *White* ■ *Klitzkie*, 281 F.3d 920, 928 (9th Cir. 2002) (relying on *Black’s Law Dictionary*, in the context of a criminal case, for the definition of “pending” as “awaiting decision”); *Swartz* ■ *Meyers*, 204 F.3d 417, 421 (3d Cir. 2000) (relying on *Black’s Law Dictionary* for the definition of “pending,” expressly because “‘pending’ is not defined in the statute”). Any common-sense reading of the Agreement and the USAO’s recent sworn construction of it, is consonant with the Federal Criminal Action’s “remaining undecided” and “awaiting decision.” See *Unified Gov’t of Athens-Clarke County* ■ *Athens Newspapers, LLC*, No. S07G1133, __S.E.2d __, 2008 WL 2579238, *3 (Ga. June 30, 2008) (reviewing a public-records request against Georgia’s “pending investigation” exception to its open-records law, and holding that “a seemingly inactive investigation which has not yet resulted in a prosecution logically “remains undecided,” and is therefore “pending,” until it “is concluded and the file *closed*”) (emphasis added).

³ The United States Court of Appeals for the Eleventh Circuit routinely relies on *Black’s Law Dictionary* for the definition of statutory terms, including in criminal cases. See e.g., *United States* ■ *Young*, 528 F.3d 1294, 1297 n.3 (11th Cir. 2008) (definitions of criminal “complaint” and “indictment”); *United States* ■ *Brown*, 526 F.3d 691, 705 (11th Cir. 2008) (definition of “knowingly” in criminal statute).

III. Section 3509(k) Applies Even After a Plaintiff Turns 18.

The parallel stay provision in § 1595, discussed *supra* at 8-9, mandates, without exception, that any civil action brought under that section for violation of § 1591 (prohibiting transportation of minors for prostitution) “shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.” 18 U.S.C. § 1591(b)(1). Whether the § 1595 plaintiff has turned 18 does not vitiate the efficacy of this mandatory stay.

An example illustrates why the stay provided in § 3509(k) has the same broad scope as the stay provided in § 1591(b)(1). As discussed above, § 3509(k) stays any civil suit for injury to a minor, arising out of the same occurrence as a pending criminal action. One type of civil suit falling within § 3509(k)’s ambit is a suit seeking redress for a violation of 18 U.S.C. § 2423(a). Section 2423(a) - - just like § 1591 - - prohibits transportation of minors for prostitution. The elements of both statutes are identical. There would simply be no legitimate basis for Congress to differentiate between the consequences attached to violating these two sections. Thus, just as Congress mandated under § 1595(b)(1) that civil discovery shall be stayed when there is an ongoing federal investigation under § 1591 (even after the victim turns 18), the identical treatment should apply under § 3509(k) to civil actions brought for the identical violation of § 2423(a).

Logic compels a rule requiring continued application of the § 3509(k) stay to a putative victim who has since turned 18. Consider again the example of § 2243(a). Assume that the USAO is investigating a § 2243(a) violator with two alleged victims; one who is now 17, and one who has turned 19. Assume further that both decide to sue the alleged offender while the USAO is still in the process of conducting its criminal investigation. Why would Congress enact § 3509(k) to prohibit the defendant from conducting civil discovery in the 17-year-old's lawsuit, but permit him to conduct full discovery in the 19-year-old's lawsuit, including taking the depositions of both the 19- and the 17-year-old, the federal investigating agents and all the grand-jury witnesses? This could not have been Congress' intent.

The legislative history to a statute resembling § 1595 is also instructive. When Congress enacted 18 U.S.C. § 2255, it provided a civil remedy to any "minor . . . victim" of enumerated federal sex offenses. *See* Child Abuse Victims' Rights Act of 1986, Pub. L. No. 99-500, 100 Stat. 1783, § 703 (1986). In 2006, Congress amended the statute to clarify that the civil cause of action was available not just while the victim was a minor, but even after she or he turned 18. *See* Pub. L. 109-248, 120 Stat. 650, § 707 (b)(1)(A) (amending § 2255 to permit suit by adults who were victims of enumerated federal offenses when they were minors, by deleting "Any minor who is [a victim]" and adding "Any person, who, while a

completion of a criminal action. *See also* 18 USC § 3509(k).

H.R. Rep. 108-264(II), 108th Cong., 1st Sess. (2003), *reprinted at* 2003 WL 22272907, at *16-17 (“agency view” by the Department of Justice on bill later codified at 18 U.S.C. § 1595).

The Department specifically argued to Congress in the clearest terms: “We believe that prosecutions should take priority over civil redress and that *prosecutions should be complete* prior to going forward with civil suits.” *Id.* at 17 (emphasis added). Nowhere did the Department suggest that pending prosecutions warrant *less* protection (*i.e.*, should be “hinder[ed]”) simply because a particular civil plaintiff happens to reach his or her 18th birthday.

IV. A Stay is Mandatory Despite Resulting “Delay” to Civil Lawsuits.

Inherent in any § 3509(k) stay is delay to the progress (discovery, trial, appeal) of *all* related civil lawsuits. Congress recognized this in enacting the stay provision, which necessarily prioritized the interests of completing a criminal investigation and prosecution over the interests of a particular plaintiff in seeking personal pecuniary damages. Based on this reasoning, the *Francis II* court specifically refused to provide any relief to plaintiffs “simply because the state [criminal] matter is not progressing as fast as they would hope.” The court made this determination despite the plaintiffs’ complaints about the “frustrating delay” and that “the state criminal case ‘has languished for almost two years with no end

in sight,” finding that this “is a matter to be addressed in state [criminal] court.”

Id. Accordingly, the anticipated delay in this case, attendant to the term of the deferred-prosecution agreement, does not change the clear command of § 3509(k).

According to her own pleadings, the plaintiff waited seven years before filing this lawsuit, Compl. ¶¶ 2,6, and so cannot rightfully claim prejudice from additional temporary delay.

■. **Section 3509 Aside, a Discretionary Stay is Warranted.**

Even, *arguendo*, were this Court not to apply the mandate of § 3509, a discretionary stay should still be entered during the pendency of the Federal Criminal Action. *SEC v. Healthsouth Corp.*, 261 F. Supp. 2d 1298, 1326 (N.D. Ala. 2003) (“No question exists that this court has the power to stay a civil proceeding due to an active, parallel criminal investigation.”). Other federal statutes support such a stay -- particularly when the criminal action may be adversely affected by the civil litigation. For example, under 18 U.S.C. § 2712(e)(1), “the court shall stay any action commenced [against the United States] if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or prosecution of a related criminal case.” Allowing this lawsuit to progress while Epstein remains subject to the Federal Criminal Action will prejudice him irrevocably and irreparably. As

provided below, there are several adverse effects to allowing this case to proceed while the Federal Criminal Action remains pending.

In this lawsuit, Epstein has a right to defend himself. In the Federal Criminal Action, Epstein has a right against self-incrimination.⁴ Without a stay, Epstein will be immediately forced to abandon one of these rights.

Should he choose his Fifth Amendment rights, he will expose himself to an adverse inference at the summary-judgment stage and at trial. *See generally, Wehling* █ *Columbia Broad. Sys*, 611 F.2d 1026, 1027 (5th Cir. 1980) (observing that “invocation of the privilege would be subject to the drawing of an adverse inference by the trier of fact”). On the other hand, should Epstein choose his right to defend himself in this lawsuit, the USAO will be able to use his responses at every stage of the discovery and trial process (*e.g.*, his Answer, responses to document requests, responses to requests for admissions, sworn answers to interrogatories, answers to deposition questions, and trial testimony) to his detriment in the Federal Criminal Action.⁵

⁴ The privilege applies in “instances where the witness has reasonable cause to apprehend danger” of criminal liability. *Hoffman* █ *United States*, 341 U.S. 479, 486 (1951).

⁵ This could give the USAO a tremendous advantage in prosecuting Epstein in the Federal Criminal Action. *See Comment, Using Equitable Powers to Coordinate Parallel Civil and Criminal Actions*, 98 Harv. L. Rev. 1023, 1026 (1985) (observing that “the prosecutor may have access to detailed civil depositions of the accused witnesses, while the rules of criminal procedure bar the accused from deposing the prosecutor’s witnesses”).

In this lawsuit, even before civil discovery begins, under the Initial Disclosures required by Fed. R. Civ. P. 26 and S.D. Fla. Local Rule 26.1, Epstein “must” disclose the identities of all the witnesses he would call in his defense to the Federal Criminal Action (Rule 26(a)(1)(A)(i)), copies of “all documents” he “may use to support [his] defenses” (Rule 26(a)(1)(A)(ii)), as well as the identity of “any” expert witness he “may use at trial,” along with mandatory disclosure of “a written report” containing “a complete statement of all opinions the [expert] will express and the basis and reasons for them” (Rule 26(a)(2)(A) and (B)(i)).

In contrast, in the pending Federal Criminal Action, which is governed exclusively by the Federal Rules of Criminal Procedure, the USAO would not be entitled to compel pre-trial production of *any* of this information. *See* Fed. R. Cr. P. 16(b)(1)(A), (C), and 16(b)(2); *United States v. Argomaniz*, 925 F.2d 1349, 1355-56 (11th Cir. 1991) (explaining act-of-production privilege).

Thus, absent a stay of this civil action, the USAO would receive fundamentally unfair access to defense information and highly prejudicial advance insight into criminal defense strategy. *See* Comment, 98 Harv. L. Rev. at 1030 (“To the extent that a prosecutor acquires evidence that was elicited from the accused in a parallel civil proceeding, the criminal process becomes less adversarial.”).

Without a stay in place, discovery will proceed, including against third parties. Mr. Epstein will have no alternative but to issue subpoenas seeking evidence from state and federal law-enforcement officers. For example, Epstein is clearly entitled to discover evidence of prior statements (including inconsistent statements) given by witnesses whom law-enforcement has previously interviewed. *See, e.g., Cox v. Treadway*, 75 F.3d 230 (6th Cir. 1996) (holding that district court properly admitted testimony of prosecutor about prior inconsistent statements that witness made to the prosecutor). Likewise, Epstein may be entitled to discovery of relevant evidence that is in the present possession of the grand jury or other law-enforcement agencies. *See, e.g., Simpson v. Hines*, 729 F. Supp. 526, 527 (E.D. Tex. 1989) (“The grand jury has concluded its deliberations The need for secrecy of these specific tapes no longer outweighs other concerns.”); *Golden Quality Ice Cream Co., Inc. v. Deerfield Specialty Papers, Inc.*, 87 F.R.D. 53, 59 (E.D. Pa. 1980) (“[W]here, as here, the grand jury has completed its work and all that is sought are those documents turned over to the grand jury by the corporations which are defendants in the civil case, the considerations . . . militating against disclosure are beside the point.”) (citing *Douglas Oil Co. of Calif. v. Petrol Stops Nw.*, 441 U.S. 211 (1979)).

In response to such third-party subpoenas to law-enforcement witnesses, we anticipate that it will be the government, not Mr. Epstein, who will object to

discovery in this civil case, until the final conclusion of the Federal Criminal Action.

Conclusion

Because this lawsuit arises from the same allegations as the Federal Criminal Action, this Court should stay this lawsuit until that action is no longer pending.

Respectfully submitted,

LEWIS TEIN, P.L.



By:



GUY A. LEWIS



ATTERBURY, GOLDBERGER & WEISS, P.A.



By: Jack A. Goldberger



Attorneys for Defendant Jeffrey Epstein

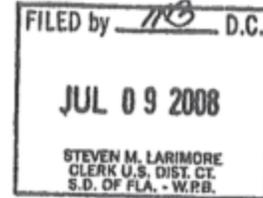
EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

IN RE: JANE DOE,

Petitioner.



DECLARATION OF A. [REDACTED]
IN SUPPORT OF UNITED STATES' RESPONSE
TO VICTIM'S EMERGENCY PETITION FOR ENFORCEMENT
OF CRIME VICTIM RIGHTS ACT, 18 U.S.C. § 3771

1. I, [REDACTED] hereby declare that I am a member in good standing of the Bar of the State of Florida. I graduated from the University of California at Berkeley School of Law (Boalt Hall) in 1993. After serving as a judicial clerk to the Hon. David F. Levi in Sacramento, California, I was admitted to practice in California in 1995. I also am admitted to practice in all courts of the states of Minnesota and Florida, the Eighth, Eleventh, and Federal Circuit Courts of Appeals, and the U.S. District Courts for the Southern District of Florida, the District of Minnesota, and the Northern District of California. My bar admission status in California and Minnesota is currently inactive. I am currently employed as an Assistant United States Attorney in the Southern District of Florida and was so employed during all of the events described herein.

E/AB

2. I am the Assistant United States Attorney assigned to the investigation of Jeffrey Epstein. The case was investigated by the Federal Bureau of Investigation ("FBI"). The federal investigation was initiated in 2006 at the request of the Palm Beach Police Department ("PBPB") into allegations that Jeffrey Epstein and his personal assistants had used facilities of interstate commerce to induce young girls between the ages of thirteen and seventeen to engage in prostitution, amongst other offenses.

3. Throughout the investigation, when a victim was identified, victim notification letters were provided to her both from your Affiant and from the FBI's Victim-Witness Specialist. Attached hereto are copies of the letters provided to Bradley Edwards' three clients, T.M., C.W., and S.R.¹ Your Affiant's letter to C.W. was provided by the FBI. (Ex. 1). Your Affiant's letter to T.M. was hand-delivered by myself to T.M. at the time that she was interviewed (Ex. 2).² Both C.W. and T.M. also received letters from the FBI's Victim-Witness Specialist, which were sent on January 10, 2008 (Exs. 3 & 4). S.R. was identified via the FBI's investigation in 2007, but she initially refused to speak with investigators. S.R.'s status as a victim of a federal offense was confirmed when she was interviewed by

¹Attorney Edwards filed his Motion on behalf of "Jane Doe," without identifying which of his clients is the purported victim. Accordingly, I will address facts related to C.W., T.M., and S.R. All three of those clients were victims of Jeffrey Epstein's while they were minors beginning when they were fifteen years old.

²Please note that the dates on the U.S. Attorney's Office letters to C.W. and T.M. are not the dates that the letters were actually delivered. Letters to all known victims were prepared early in the investigation and delivered as each victim was contacted.

federal agents on May 28, 2008. The FBI's Victim-Witness Specialist sent a letter to S.R. on May 30, 2008 (Ex. 5).

4. Throughout the investigation, the FBI agents, the FBI's Victim-Witness Specialist, and your Affiant had contact with C.W. and S.R. Attorney Edwards' other client, T.M., was represented by counsel and, accordingly, all contact with T.M. was made through that attorney. That attorney was James Eisenberg, and his fees were paid by Jeffrey Epstein, the target of the investigation.³

5. In the summer of 2007, Mr. Epstein and the U.S. Attorney's Office for the Southern District of Florida ("the Office") entered into negotiations to resolve the investigation. At that time, Mr. Epstein had been charged by the State of Florida with solicitation of prostitution, in violation of Florida Statutes § 796.07. Mr. Epstein's attorneys sought a global resolution of the matter. The United States subsequently agreed to defer federal prosecution in favor of prosecution by the State of Florida, so long as certain basic preconditions were met. One of the key objectives for the Government was to preserve a federal remedy for the young girls whom Epstein had sexually exploited. Thus, one condition of that agreement, notice of which was provided to the victims on July 9, 2008, is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

³The undersigned does not know when Mr. Edwards began representing T.M. or whether T.M. ever formally terminated Mr. Eisenberg's representation.

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

6. An agreement was reached in September 2007. The Agreement contained an express confidentiality provision.

7. Although individual victims were not consulted regarding the agreement, several had expressed concerns regarding the exposure of their identities at trial and they desired a prompt resolution of the matter. At the time the agreement was signed in September 2007, T.M. was openly hostile to the prosecution of Epstein. The FBI attempted to interview S.R. in October 2007, at which time she refused to provide any information regarding Jeffrey Epstein. None of Attorney Edwards' clients had expressed a desire to be consulted prior to the resolution of the federal investigation.

8. As explained above, one of the terms of the agreement deferring prosecution to the State of Florida was securing a federal remedy for the victims. In October 2007, shortly after the agreement was signed, four victims were contacted and these provisions were discussed. One of those victims was C.W. who at the time was not represented, and she was given notice of the agreement. Notice was also provided of an expected change of plea in October 2007. When Epstein's attorneys learned that some of the victims had been

notified, they complained that the victims were receiving an incentive to overstate their involvement with Mr. Epstein in order to increase their damages claims. While your Affiant knew that the victims' statements had been taken and corroborated with independent evidence well before they were informed of the potential for damages, the agents and I concluded that informing additional victims could compromise the witnesses' credibility at trial if Epstein reneged on the agreement.

9. After C.W. had been notified of the terms of the agreement, but before Epstein performed his obligations, C.W. contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Your Affiant secured pro bono counsel to represent C.W. and several other identified victims. Pro bono counsel was able to assist C.W. in avoiding the improper deposition. That pro bono counsel did not express to your Affiant that C.W. was dissatisfied with the resolution of the matter.

10. In mid-June 2008, Attorney Edwards contacted your Affiant to inform me that he represented C.W. and S.R. and asked to meet to provide me with information regarding Epstein. I invited Attorney Edwards to send to me any information that he wanted me to consider. Nothing was provided. I also advised Attorney Edwards that he should consider contacting the State Attorney's Office, if he so wished. I understand that no contact with that office was made. Attorney Edwards had alluded to T.M., so I advised him that, to my knowledge, T.M. was still represented by Attorney James Eisenberg.

11. On Friday, June 27, 2008, at approximate 4:15 p.m., your Affiant received a copy of the proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., Monday, June 30, 2008. Your Affiant and the Palm Beach Police Department attempted to provide notification to victims in the short time that Epstein's counsel had given us. Although all known victims were not notified, your Affiant specifically called attorney Edwards to provide notice to his clients regarding the hearing. Your Affiant believes that it was during this conversation that Attorney Edwards notified me that he represented T.M., and I assumed that he would pass on the notice to her, as well. Attorney Edwards informed your Affiant that he could not attend but that someone would be present at the hearing. Your Affiant attended the hearing, but none of Attorney Edwards' clients was present.

12. On today's date, your Affiant provided the attached victim notifications to C.W. and S.R. via their attorney, Bradley Edwards (Exs. 6 & 7). A notification was not provided to T.M. because the U.S. Attorney's modification limited Epstein's liability to victims whom the United States was prepared to name in an indictment. In light of T.M.'s prior statements to law enforcement, your Affiant could not in good faith include T.M. as a victim in an indictment and, accordingly, could not include her in the list provided to Epstein's counsel.

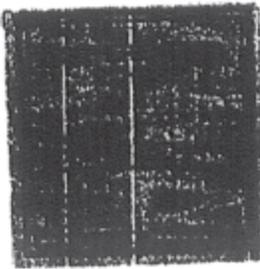
13. Furthermore, with respect to the Certification of Emergency, Attorney Edwards did not ever contact me prior to the filing of that Certification to demand the relief that he requests in his Emergency Petition. On the afternoon of July 7, 2008, after your Affiant had

already received the Certification of Emergency and Emergency Petition, I received a letter from Attorney Edwards that had been sent, via Certified Mail, on July 3, 2008. While that letter urges the Attorney General and the United States Attorney to consider "vigorous enforcement" of federal laws with respect to Jeffrey Epstein, it contains no demand for the relief requested in the Emergency Petition.

14. I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 9th day of July, 2008.





U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

June 7, 2007

DELIVERY BY HAND

Miss C [REDACTED] W [REDACTED]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [REDACTED]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [REDACTED] or Special Agent [REDACTED] from the Federal Bureau of Investigation at [REDACTED]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [REDACTED]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

MISS C [REDACTED] W [REDACTED]
JUNE 7, 2007
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [REDACTED] or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [REDACTED] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

[REDACTED]

Assistant United States Attorney

cc: Special Agent [REDACTED] F.B.I.

11
13



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

August 11, 2006

DELIVERY BY HAND

Miss T [REDACTED] M [REDACTED]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [REDACTED]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [REDACTED] or Special Agent [REDACTED] from the Federal Bureau of Investigation at [REDACTED]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [REDACTED]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

MISS [REDACTED]
AUGUST 11, 2006
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you are entitled to restitution from the perpetrator. A list of counseling and medical service providers will be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [REDACTED] or myself immediately. It is important that someone working on behalf of the targets of the investigation may contact you. Such contact will not violate the law. However, if you are contacted, you have the choice of speaking to them or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [REDACTED] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By [REDACTED]

A. Marie Vitale
Assistant United States Attorney

cc: Special Agent [REDACTED], F.B.I.



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

January 10, 2008

[Redacted]

Re: Case Number: [Redacted]

Dear [Redacted]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [Redacted] and Personal Identification Number (PIN) [Redacted] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is W [Redacted]



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Victim Specialist



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

January 10, 2008

James Eisenberg
One Clearlake Center Ste 704 Australian South
West Palm Beach, FL 33401

Re: [REDACTED]

Dear James Eisenberg:

You have requested to receive notifications for [REDACTED]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-886-DOJ-4YOU (1-886-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [REDACTED] and Personal Identification Number (PIN) [REDACTED] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is Eisenberg.



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

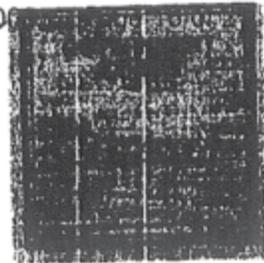
Sincerely,



Victim Specialist



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970



May 30, 2008

[Redacted]

Re: [Redacted]

Dear [Redacted]

Your name was referred to the FBI's Victim Assistance Program as being a possible victim of a federal crime. We appreciate your assistance and cooperation while we are investigating this case. We would like to make you aware of the victim services that may be available to you and to answer any questions you may have regarding the criminal justice process throughout the investigation. Our program is part of the FBI's effort to ensure the victims are treated with respect and are provided information about their rights under federal law. These rights include notification of the status of the case. The enclosed brochures provide information about the FBI's Victim Assistance Program, resources and instructions for accessing the Victim Notification System (VNS). VNS is designed to provide you with information regarding the status of your case.

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

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[Redacted]

[Redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

A large black rectangular redaction box covering the signature area.

Victim Specialist



U.S. Department of Justice

United States Attorney
Southern District of Florida



500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 9, 2008

VIA FACSIMILE

Brad Edwards, Esq.

The Law Offices of Brad Edwards & Associates, LLC



Re: Jeffrey Epstein/C [REDACTED] W [REDACTED]: NOTIFICATION OF IDENTIFIED VICTIM

Dear Mr. Edwards:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, C [REDACTED] W [REDACTED].

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control 1, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

BRAD EDWARDS, ESQ.

NOTIFICATION OF IDENTIFIED VICTIM C [REDACTED] W [REDACTED]

JULY 9, 2008

PAGE 2 OF 2

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that your client, C [REDACTED] W [REDACTED] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, [REDACTED]

Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents Kuyrkendall and Richards for the health and well-being of Ms. [REDACTED]

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: [REDACTED]

ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.



U.S. Department of Justice

United States Attorney
Southern District of Florida

AD-888-C	
GOVERNMENT EXHIBIT	
CASE NO.	08-80736-CV-MARRA
EXHIBIT NO.	7

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 9, 2008

VIA FACSIMILE

Brad Edwards, Esq.

The Law Offices of Brad Edwards & Associates, LLC



Re: Jeffrey Epstein [REDACTED] NOTIFICATION OF IDENTIFIED VICTIM

Dear Mr. Edwards:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, S [REDACTED] R [REDACTED]

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein) entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control I, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

BRAD EDWARDS, ESQ.
NOTIFICATION OF IDENTIFIED VICTIM [REDACTED]
JULY 9, 2008
PAGE 2 OF 2

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that your client, S [REDACTED] R [REDACTED] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, [REDACTED]

Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents Kuyrkendall and Richards for the health and well-being of Ms. [REDACTED]

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: [REDACTED]

ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA



FLORIDA SUGAR CANE
LEAGUE, INC.

Plaintiff,

vs.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION,

Defendant.

DR1517PC0554

Case Number: 91-2108

SEP 20 2 10 PM '91
CLERK OF CIRCUIT COURT

RECORDS IN THE PUBLIC
RECORDS SECTION

1090991

ORDER

This cause is before the Court on the Complaint of the Florida Sugar Cane League, Inc. ("League"). The League seeks an order requiring a state agency, the Florida Department of Environmental Regulation ("DER"), to release certain documents under its custody and control, pursuant to the Florida Public Records Act, Chapter 119, Florida Statutes. The facts in this case are as follows:

DER is a Defendant in the case styled United States ■. South Florida Water Management District, et al., Case No. 88-1886-CIV-Hoeveler, United States District Court, Southern District of Florida ("U.S. ■. SFWMD"). DER, as a Defendant in that case, entered into settlement negotiations with the plaintiff as represented by the United States Department of Justice ("DOJ"). During the negotiations, drafts of proposed settlement agreements and other information relating to the settlement proposal were made, sent or received by DER to and from federal agencies and representatives, including DOJ. DER also entered into an agreement with DOJ to keep all documents it received during the settlement negotiations confidential.

On May 21, 1991, the League made a public records request for a draft of the Settlement Agreement which the Secretary of DER had publicly stated as having been received by DER. On May 28, 1991, DER responded to the League's request by refusing to disclose the requested document claiming the document was privileged and immune to discovery. On May 31, 1991, the League filed this action, pursuant to Chapter 119, Florida Statutes. A hearing was originally scheduled before this Court for June 5, 1991, but DER removed the case to federal district court, where it was ultimately transferred to the Southern District of Florida. The League filed a Motion to Quash DER's Notice of Removal, which motion was argued before Judge William Hoeverler on July 10, 1991, and was granted on September 10, 1991. The federal court held that there was no federal jurisdiction over the matter as the League's claim arises purely under state law, and Judge Hoeverler remanded the case back to this Court. A hearing was held before this Court on September 16, 1991. Attorneys for the parties appeared and argued their respective positions. DOJ also appeared, pursuant to title 28, United States Codes, section 517, to argue in support of DER and to advise the Court of the United States' asserted interest in keeping the documents from public disclosure. DER asserts that Florida's Public Records Act is not applicable in this matter because it has been preempted by "federal immunities and privileges." DER further claims that it has contractually vowed to the United States to withhold requested documents under the confidentiality agreement

into which it entered with DOJ, and that DER is acting as DOJ's agent in withholding the documents from public disclosure.

This Court rejects these arguments. Florida's public records law is sweeping in its breadth and requires virtually unfettered public access to records in the custody of state agencies. Unless a statutorily provided exemption permits nondisclosure of public records, Florida law requires that all such records in the custody of state agencies be open and available for public inspection. The parties agreed that there is no statutory exemption in the Florida Public Records Act which would prevent disclosure of public records received by state agencies during settlement negotiations in U.S. ■. SFWMD, including the records sought by the League in this case. DER has cited no applicable statutory exemption in the Florida Public Records Act, and the judiciary is without any authority to expand or create an exemption to Florida's public records law. Wait ■. Florida Power & Light Co., 372 So. 2d 420 (Fla. 1979); Times Publishing Co. ■. City of St. Petersburg, 558 So. 2d 487 (Fla. 2d DCA 1990).

Principles of federal preemption under the Supremacy Clause may, in limited circumstances, act to prevent application of Florida's public records law where there is a clear conflict with an express requirement of confidentiality provided in a federal statute. See Cummer ■. Pace, 159 So. 2d 679, 681-82 (Fla. 1935); see generally, pp. 81-82, Florida's Government-in-the-Sunshine Manual, Office of the Attorney General (1991). In this case, although DER claims preemption under federal law of privileges and

immunities, it has cited no specific federal statute which clearly requires that the documents in question be kept confidential.

DER also relies on DOJ's assertion that the documents would not be "discoverable" from DOJ in the pending case, and that documents are exempt from disclosure by DOJ under FOIA. Even assuming that were true, it is irrelevant to the application of Florida's public records law to documents in the custody of Florida's state agencies. As stated by Judge Hoeveler in remanding this action:

Thus, while FOIA may provide an independent cause of action insofar as the document in dispute is also in the custody of a federal agency, i.e., the Department of Justice, it cannot be said to displace and supplant a state statute directed at state agencies and state records. (Hoeveler Order at p. 12.)

DER's reliance on its confidentiality agreement with DOJ is equally misplaced. A state agency cannot bargain away its Public Records Act duties or create a "self-exemption" with a promise to third parties to keep records from disclosure to the public. Tribune Co. v. Hardee Memorial Hospital, Case No. CA-91-370, Tenth Judicial Circuit in and for Hardee County, Florida. See also Browning v. Walton, 351 So. 2d 380 (Fla. 4th DCA 1977).

THEREFORE, it is hereby ORDERED and ADJUDGED that:

1. Settlement agreements made or received at any time by DER in connection with U.S. v. SFWMD are hereby declared to be public records subject to disclosure under the Public Records Act, Chapter 119, Florida Statutes.
2. The Federal Freedom of Information Act, title 5, United States Code, section 552, does not preempt Chapter 119, Florida

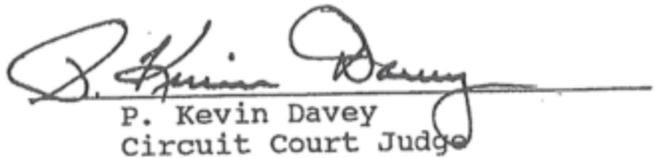
Statutes, to exempt from public disclosure public records in the custody of Florida state agencies, including DER;

3. DER shall provide access to the League, within forty-eight hours of rendition of this Order, to inspect and examine any and all draft settlement agreements DER has withheld from public disclosure based on a claim of federal preemption;

4. If DER desires to appeal this Order, DER shall prepare and deliver to the clerk of this Court, for inclusion in the record under seal, at the time it files its notice of appeal, all draft settlement agreements exchanged with the DOJ relating to U.S. ■. SFWMD which it asserts are exempt from Florida's public records law based on a claim of federal preemption. Such documents shall be held under seal pending final disposition of the appeal; and

5. As the parties have not yet agreed to a stipulation as to an appropriate award of attorneys' fees, the Court retains jurisdiction to determine the award of attorneys' fees pursuant to section 119.12, Florida Statutes.

DONE and ORDERED in Chambers at Tallahassee, Leon County, Florida, this 20th day of September, 1991.


P. Kevin Davey
Circuit Court Judge

Copies furnished to
counsel of record

606 So.2d 1267
17 Fla. L. Weekly D2571
(Cite as: 606 So.2d 1267)

FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION,
Appellant,
FLORIDA SUGAR CANE LEAGUE, INC.,
Appellee.

No. 91-3128.

District Court of Appeal of Florida,
First District.

Oct. 29, 1992.

*1267 An appeal from the Leon County
Circuit Court; P. Kevin Davey, Judge.

Robert G. Gough, Asst. Gen. Counsel,
Florida Dept. of Environmental Regulation,
Tallahassee, for appellant.

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Richard A. Russell of Peeples, Earl & Blank,
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Barry M. Hartman, Acting Asst. Atty. Gen.,
Dexter W. Lehtinen, U.S. Atty., and Susan
Hill Ponzoli, Asst. U.S. Atty., Miami, Keith E.
Saxe, David C. Shilton and Ellen J. Durkee,
Dept. of Justice, Washington, D.C., for amicus/
U.S.

PER CURIAM.

AFFIRMED. Wait ■ Florida Power & Light
Co., 372 So.2d 420 (Fla.1979).

MINER, ALLEN and KAHN, JJ., concur.

END OF DOCUMENT

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