

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-Civ-Marra/Matthewman

JANE DOE 1 AND JANE DOE 2,

Petitioners,

vs.

UNITED STATES,

Respondent.

\_\_\_\_\_ /

**DECLARATION OF [REDACTED]**  
**IN SUPPORT OF GOVERNMENT'S RESPONSE AND OPPOSITION**  
**TO PETITIONERS' MOTION FOR PARTIAL SUMMARY JUDGMENT**  
**AND CROSS-MOTION FOR SUMMARY JUDGMENT**

1. I, [REDACTED], do hereby declare that I am a member in good standing of the Bar of the State of Florida. [REDACTED]

[REDACTED]. 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.

2. I am the Assistant United States Attorney who was assigned to the investigation of Jeffrey Epstein. I have previously filed two Declarations (*see* DE14 and DE35). This

Declaration repeats some of the information contained in the earlier Declarations for ease of reference.

3. The federal investigation of Jeffrey Epstein was handled 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.

4. Throughout the investigation, when a victim was identified, victim notification letters were provided to her both from me and from the FBI’s Victim-Witness Specialist. Attached hereto are copies of the letters provided to Jane Doe 1 and Jane Doe 2. (Exs. 1 & 2). The dates on the U.S. Attorney’s Office letters to Jane Doe 1 and Jane Doe 2 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. Both Jane Doe 1 and Jane Doe 2 also received letters from the FBI’s Victim-Witness Specialist, which were sent on January 10, 2008 (Exs. 3 & 4).

5. A subpoena was issued to Jane Doe 2 for testimony and documents in September, 2006. Within a few days, I was contacted by attorney James Eisenberg, who informed me that he was representing Jane Doe 2. Mr. Eisenberg also informed me that Jane Doe 2 would not appear before the grand jury or at a consensual interview unless the U.S. Attorney’s Office obtained court-ordered use immunity for Jane Doe 2 pursuant to 18 U.S.C. §§ 6001, *et seq.* I had several oral and written communications with Mr. Eisenberg asking him if Jane Doe 2 would appear under the protection of a standard *Kastigar* letter, but he told me that Jane Doe 2 would

only appear if 6001 immunity was received. For example, in my letter of January 24, 2007, I confirmed my earlier conversation where Mr. Eisenberg had advised that Jane Doe 2 intended “to invoke the Fifth Amendment if questioned,” and that she “was unwilling to speak to [the investigative team] pursuant to a *Kastigar* letter.” (*See Ex. 5.*)

6. In the same letter of January 24, 2007, I raised concerns regarding whether Mr. Eisenberg had a conflict of interest. (*See id.*) As noted in Jane Doe 2’s Declaration, Mr. Eisenberg’s fees were paid by Jeffrey Epstein, the target of the investigation. In response, Mr. Eisenberg wrote the attached letter dated February 1, 2007. (*See Ex. 6.*) Mr. Eisenberg stated that my “office refuses to accept the fact that it is [Jane Doe 2’s] decision not to cooperate with the government that upsets her.” (*Id.* at ¶ 1.) Mr. Eisenberg also assured me “that there is no conflict of interest in [his] representation of [Jane Doe 2]. In this case I have always been asked and always will exercise independent judgment to follow my client’s independent will.” (*Id.* at ¶ 2.)

7. In light of Mr. Eisenberg’s representations that there was no conflict of interest, and in light of his clear statements that he represented Jane Doe 2, I could not directly contact or “confer” with Jane Doe 2 without running afoul of the Florida Bar rules.

8. I continued to converse with Mr. Eisenberg about having Jane Doe 2 appear for a voluntary interview, which continuously delayed the investigation. To that end, on February 5, 2007, I provided Mr. Eisenberg with two proposed *Kastigar* letters that I felt should assure Jane Doe 2 that she was being interviewed only as a witness and potential victim. (*See Ex. 7.*) At Jane Doe 2’s request, I also prepared Office paperwork to obtain authorization for childcare while Jane Doe 2 was interviewed. (*See Ex. 8.*)

9. On February 12, 2007, after another conversation where Mr. Eisenberg re-iterated Jane Doe 2's intent to invoke her Fifth Amendment privilege and Jane Doe's refusal to testify without 6001 immunity, at my request, Mr. Eisenberg provided a letter detailing Jane Doe 2's concerns regarding testifying without immunity. (*See Ex. 9.*) In that letter, Jane Doe 2 denied being involved in or a victim of any criminal activity and made statements meant to exculpate Jeffrey Epstein, including "[Jane Doe 2] never touched Mr. Epstein in a sexual way and Mr. Epstein never touched [Jane Doe 2] at all. At one point, Mr. Epstein did ask [Jane Doe 2] her age. [Jane Doe 2] insisted that she was eighteen years old." (*See id.*)

10. Based upon the proffer letter provided by Mr. Eisenberg, in March 2007, I prepared a Request for Authorization to Apply for a Compulsion Order seeking Immunity pursuant to 18 U.S.C. Sections 6001-6003 for Jane Doe 2. On April 13, 2007, [REDACTED], Deputy Assistant Attorney General, approved the request. (*See Ex. 10.*) I then applied to the Court for an Order compelling Jane Doe 2's testimony. U.S. District Judge Middlebrooks granted the Application on April 16, 2007. (*Ex. 11.*)

11. After receiving Judge Middlebrooks' Order, Mr. Eisenberg then asked whether Jane Doe 2 could appear for an interview, rather than appear before the grand jury, so that he could be present. On April 24, 2007, Jane Doe 2 was interviewed; the interview was videotaped. (*Ex. 12.*) During the interview, Jane Doe 2 again denied being involved in or a victim of any criminal activity and made statements meant to exculpate Jeffrey Epstein. (*See Ex. 12.*)

12. Other than that interview, I had no direct contact with Jane Doe 2 during the course of the investigation. Jane Doe 2 never contacted me to seek information or to confer with me regarding the investigation.

13. In light of other evidence and witness statements, the investigative team considered Jane Doe 2's exculpatory statements to be false. Nonetheless, those statements precluded us from including her as a victim who would be referenced in an indictment. Despite this, in light of the investigative team's general approach to try to go above and beyond in terms of caring for the victims, I continued to treat her as a victim. In that vein, shortly after the Non-Prosecution Agreement was signed, I contacted Mr. Eisenberg to ask whether he still represented Jane Doe 2. Mr. Eisenberg stated that he did. I then told him that we would soon be making victim notifications, and asked Mr. Eisenberg whether I could send the notification directly to Jane Doe 2, or if it had to be served through him. Mr. Eisenberg instructed me that any victim notification should be sent to him.

14. As explained in further detail below, after the Non-Prosecution Agreement was signed, Mr. Epstein, through his counsel, made several attempts to avoid having to perform his obligations. Several of those attacks alleged prosecutorial misconduct by me, and, Epstein's attorneys used my efforts to provide a victim notification to Jane Doe 2 as evidence of that misconduct. (*See, e.g.*, Ex. 13.) In response to Mr. Lefkowitz's ruinous allegations against Jane Doe 2 and myself, on December 13, 2007, I sent a response to Mr. Lefkowitz defending myself and Jane Doe 2. (Ex. 14.)

15. 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 \_\_\_\_\_ day of May, 2017.

\_\_\_\_\_, Esq.