



**BURMAN, CRITTON, LUTTIER  
& COLEMAN LLP**

A LIMITED LIABILITY PARTNERSHIP

J. MICHAEL BURMAN, P.A.<sup>1</sup>  
GREGORY W. COLEMAN, P.A.  
ROBERT D. CRITTON, JR., P.A.<sup>1</sup>  
BERNARD LEBEDEKER  
MARK T. LUTTIER, P.A.  
JEFFREY C. PEPIN  
MICHAEL J. PIKE  
HEATHER McNAMARA RUDA

<sup>1</sup> FLORIDA BOARD CERTIFIED  
CIVIL TRIAL LAWYER

ADELQUI J. BENAVENTE  
PARALEGAL / INVESTIGATOR

BARBARA M. McKENNA  
ASHLIE STOKEN-BARING  
BETTY STOKES  
PARALEGALS

RITA H. BUDNYK  
OF COUNSEL

July 8, 2009

**SENT BY FEDERAL EXPRESS**

A. Marie Villafana, Esq.  
Assistant U.S. Attorney  
Southern District of Florida  
500 East Broward Boulevard, 7<sup>th</sup> Floor  
Ft. Lauderdale, FL 33394

Re: **Jane Doe No. 8 v. Jeffrey Epstein**  
**Case No. 09-CV-80802-Marra/Johnson**

Dear Ms. Villafana:

As you are aware, I am Mr. Epstein's attorney in the civil cases that have been filed against him. While I am certainly familiar with the NPA, it is clear to me that my interpretation of it may differ from yours (USAO) or one of the many plaintiffs' attorneys as it relates to what I can do or assert in defense of Mr. Epstein.

As I expressed to Judge Marra, my charge from Mr. Epstein is to take no action that could reasonably be considered to be a violation of the NPA. With that in mind, I am sending our motion to dismiss in Jane Doe #8, along with a copy of her complaint.

While I know you expressed to Mr. Lefkowitz that you (USAO) were not inclined to review pleadings and offer advisory opinions, I would ask that you reconsider and review our motion.

The Plaintiff Jane Doe No. 8 is not exclusively asserting a claim pursuant to 18 U.S.C. §2255, and thus, the terms of the NPA are not implicated. In fact, Jane Doe No. 8's counsel, Adam Horowitz, who also is counsel for Plaintiffs Jane Does Nos. 2 through 7 in other civil actions against Mr. Epstein, in the June 12, 2009 hearing before U.S. District Judge Kenneth Marra (at which you were also present) conceded that –

The provision (of the NPA) relating to Mr. Epstein being unable to contest liability pertains only to those plaintiffs who have chosen as their sole remedy

L · A · W · Y · E · R · S

515 N. FLAGLER DRIVE / SUITE 400 / WEST PALM BEACH, FLORIDA 33401  
TELEPHONE (561) 842-2820 FAX (561) 844-6929

EFTA00722862

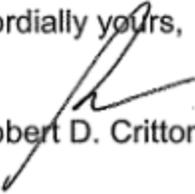
July 8, 2009  
Page 2

the federal statute. My clients, Jane Doe 2 through 7, have elected to bring additional causes of action, and it's for that reason we were silent when you said does anyone here find Mr. Epstein to be in breach of the non-prosecution agreement. This provision, as we understand it, it does not relate to our clients.

June 12, 2009, Transcript of hearing in Jane Doe, et al v. Epstein, Case No. 08-80119-Civ-Marra, U.S. District Ct., [REDACTED] Fla., p. 29, line 19-25, p. 30, line 1. A copy of the relevant portions of the hearing transcript is enclosed.

I agree with his comments as they relate to all of his clients, including Jane Doe 8. I believe that nothing in this motion involves any aspect of the NPA. If you disagree, would you please contact me as soon as possible. I must file this motion by July 14<sup>th</sup> as per my extension agreement with Mr. Horowitz. However, I stand ready to have a discussion or meeting with you regarding this motion or any other civil related pleadings or matter that may implicate the NPA. I look forward to your response.

Cordially yours,



Robert D. Critton, Jr.

RDC/clz

cc by pdf:

Jack A. Goldberger, Esq.  
Martin G. Weinberg, Esq.  
Roy Black, Esq.  
Jay Lefkowitz, Esq.

EFTA00722863

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 09-CV-80802-MARRA-JOHNSON

JANE DOE NO. 8

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

---

**DEFENDANT EPSTEIN'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Defendant, JEFFREY EPSTEIN ("Epstein"), by and through his attorneys, moves to dismiss Counts I and III of Plaintiff's Complaint as the causes of action are barred by the applicable statute of limitations.<sup>1</sup> Rule 12(b)(6); Local Gen. Rule 7.1 (S.D. Fla. 2009). In support of dismissal, Defendant states:

Plaintiff's Complaint attempts to allege three Counts; the first two counts are pursuant to state common law, and the third count is brought pursuant to 18 U.S.C. §2255. *Civil remedy for personal injuries*. Count I attempts to allege a cause of action for "Sexual Assault and Battery," Count II for "Intentional Infliction of Emotional Distress;" and Count III for "Coercion and Enticement to Sexual Activity in Violation of 18 U.S.C. §2422," pursuant to 18 U.S.C. §2255.

---

<sup>1</sup> Plaintiff's Complaint attempts to assert both state common law claims and a claim pursuant to 18 U.S.C. §2255. Since Jane Doe 8 did not relinquish her state claims and correspondingly did not file her complaint relying, exclusively, on 18 USC 2255, she is not entitled to the litigation benefits including certain waivers that directly or indirectly accrue to other civil plaintiffs from the defendant's fulfilling obligations resulting from his separate confidential agreement with the United States Attorney's Office. Plaintiff's counsel conceded that the provisions of the NPA are not implicated where a plaintiff brings additional causes of action and does not proceed exclusively under §2255. See June 12, 2009, Hearing Transcript in Jane Doe, et al v. Epstein, Case No. 08-80119-Civ-Marra, p. 29, line 19-25, p. 30, line 1.

Pursuant to the allegations on the face of Plaintiff's complaint, Count I, based on Florida's common law of assault and battery, and Count III, brought pursuant to 18 U.S.C. §2255, are barred by the applicable statute of limitations. Although a statute of limitations bar to a claim is an affirmative defense, and a plaintiff is not required to negate an affirmative defense in her complaint, a Rule 12(b)(6) dismissal on statute of limitations grounds is appropriate where, as here, "it is 'apparent from the face of the complaint' that the claim is time-barred." See generally, La Grasta v. First Union Securities, Inc., 358 F.3d 840, 845 -846 (11<sup>th</sup> Cir. 2004).

**Count I is barred by the applicable statute of limitations.**

As to Count I, which is plead pursuant to state law, it is well settled that this Court is to apply Florida law. Erie R.Co. v. Tompkins, 58 S.Ct. 817 (1938). Pursuant to Florida law, the statute of limitations for assault and battery is four years, §95.11(3)(o), Fla. Stat. §95.11(3)(o), Fla. Stat., provides –

Actions other than for recovery of real property shall be commenced as follows:

\* \* \*

**(3) Within four years.—**

\* \* \*

(o) An action for assault, battery, false arrest, malicious prosecution, malicious interference, false imprisonment, or any other intentional tort, except as provided in subsections (4), (5), and (7).

In her Complaint, Plaintiff alleges in relevant part that –

9. ... In or about 2001, Jane Doe, then approximately 16 years old, fell into Epstein's trap and became one of his victims.

According to the allegations of the Complaint, Jane Doe had one encounter with Defendant at his Palm Beach mansion in or about 2001 when Jane was approximately

16 years old. See Complaint, ¶13, endnote 1 hereto.<sup>1</sup> Based on the allegations of the Complaint, it has been at least 8 years since the alleged conduct by EPSTEIN, well past the four year statute of limitations, thus requiring dismissal of Count I. Based on the allegations, Plaintiff is now at least 24 years old.

Subsections (4) and (5) referenced in §95.11(3)(o) are not applicable. Plaintiff may attempt to argue that subsection (7) of §95.11, Fla. Stat. applies. See endnote 2 hereto for statutory text of subsection (7), including statutes referenced therein.<sup>2</sup> However, a review of Plaintiff's allegations in Count I establish that Plaintiff is attempting to assert a cause of action based on the elements of Florida's common law assault and battery to which a four year statute of limitation applies. (Compare Count II, ¶24, wherein Plaintiff tracks the language §39.01(2), Fla. Stat. (2001), pertaining to "abuse.").

Pursuant to Florida law, although the term "assault and battery" is most commonly referred to as if it were a legal unit, or a single concept, "assault and battery are separate and distinct legal concepts, assault being the beginning of an act which, if consummated, constitutes battery." 3A Fla.Jur.2d Assault §1. An assault and battery are intentional acts. See generally, Spivey v. Battaglia, 258 So.2d 815 (Fla. 1972); and Travelers Indem. Co. v. PCR, Inc., 889 So.2d 779 (Fla. 2004).

On the face of the Complaint, the applicable four year statute of limitations has expired, and accordingly, Count I is barred and required to be dismissed.

**Count III – 18 U.S.C. §2255**

As to the applicable statute of limitations for Count III which is brought pursuant to 18 U.S.C. §2255, §2255(b), (both the 2001 version, which Defendant asserts is the applicable statute, and the amended version, effective July 27, 2006), provides:

(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.

As noted above, according to the allegations of the Complaint, Jane Doe had one encounter with Defendant at his Palm Beach mansion in or about 2001 when Jane was approximately 16 years old. See Complaint, ¶13, endnote 1 hereto. Based on the allegations of the Complaint, it has been at least 8 years since the alleged conduct by EPSTEIN, well past the six year statute of limitations, thus requiring dismissal of Count III. Based on the allegations, Plaintiff is now at least 24 years old, well past 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."). Thus, on the face of the Complaint, Count III is timed barred and required to be dismissed.

#### Conclusion

Accordingly, Counts I and III of Plaintiff's Complaint are subject to dismissal. On the face of the Complaint, the causes of action which Plaintiff attempts to allege are barred by the applicable statute of limitations of 4 and 6 years, respectively.

WHEREFORE, Defendant requests that this Court dismiss Counts I and III of Plaintiff's Complaint with prejudice.

**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 \_\_\_\_\_, 2009:

Stuart S. Mermelstein, Esq.  
Adam D. Horowitz, Esq.  
18205 Biscayne Boulevard  
Suite 2218  
Miami, FL 33160  
305-931-2200  
Fax: 305-931-0877  
[ahorowitz@\[REDACTED\]](mailto:ahorowitz@[REDACTED])  
[lrivera@\[REDACTED\]](mailto:lrivera@[REDACTED])  
*Counsel for Plaintiff Jane Doe #8*

Jack Alan Goldberger, Esq.  
Atterbury Goldberger & Weiss, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, FL 33401-5012  
561-659-8300  
F. 561-659-8301  
[REDACTED]  
*Counsel for Defendant Jeffrey Epstein*

Respectfully submitted,

**BURMAN, CRITTON, LUTTIER  
& COLEMAN, LLP**  
515 N. Flagler Drive, Suite 400  
West Palm Beach, FL 33401  
(561) 842-2820

By: \_\_\_\_\_  
Robert D. Critton, Jr.  
Florida Bar #224162  
Michael J. Pike  
Florida Bar #617296  
*Counsel for Defendant Jeffrey Epstein*  
[REDACTED]  
[mpike@\[REDACTED\]](mailto:mpike@[REDACTED])

<sup>1</sup> Complaint, ¶13 alleges in relevant part –

... Jane Doe was recruited by another girl, who told her that she could make some money, but did not tell her what was involved. At all relevant times, the girl who recruited Jane Doe was acting on behalf of and as an agent for Epstein. Jane was

contacted by this girl by telephone. Jane was then picked up and brought to Epstein's mansion in Palm Beach. Once there, she was lead up a flight of stairs to the room with the massage table. Epstein came into the room and directed Jane to remove her clothes and give him a massage. Jane was frightened and felt trapped. As directed by Epstein, Jane removed her clothes. Epstein then during the massage touched Jane on her breasts and vagina, and he grabbed her hand and placed it on his penis. Epstein masturbated himself during the massage. Epstein then left money for Jane.

<sup>2</sup> **§95.11(7), Fla. Stat. –**

**(7) For intentional torts based on abuse.**--An action founded on alleged abuse, as defined in s. 39.01, s. 415.102, or s. 984.03, or incest, as defined in s. 826.04, may be commenced at any time within 7 years after the age of majority, or within 4 years after the injured person leaves the dependency of the abuser, or within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse, whichever occurs later.

**§39.01(2), Fla. Stat. (2001) –**

(2) "Abuse" means any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

**§415.102(1), Fla. Stat. (2001) –**

(1) "Abuse" means any willful act or threatened act that causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

**§984.03 (2), Fla. Stat. (2001) –**

"Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 39.01.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 09-CV-80802-Marra-Johnson

JANE DOE NO. 8,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

FILED by VT  
ELECTRONIC  
May 28, 2009  
STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

COMPLAINT

Plaintiff, Jane Doe No. 8 ("Jane" or "Jane Doe"), brings this Complaint against Jeffrey Epstein, as follows:

Parties, Jurisdiction and Venue

1. Jane Doe No. 8 ("Jane Doe") is a citizen and resident of the State of Florida, and is sui juris.
2. This Complaint is brought under a fictitious name to protect the identity of the Plaintiff because this Complaint makes sensitive allegations of sexual assault and abuse upon a minor.
3. Defendant Jeffrey Epstein is a citizen and resident of the State of New York, and presently serving a prison sentence in Palm Beach County, Florida for, inter alia, solicitation of prostitution and solicitation of minors to engage in prostitution.
4. This is an action for damages in excess of \$50 million.
5. This Court has jurisdiction of this action and the claims set forth herein pursuant to 28 U.S.C. §1332(a), as the matter in controversy (i) exceeds \$75,000, exclusive of interest and costs;

MERMELSTEIN & HOROWITZ, P. A.



*attached 7/1/09  
re: JE-16*

and (ii) is between citizens of different states.

6. Additionally, this Court has jurisdiction pursuant to 28 U.S.C. §1331 because Plaintiff alleges a claim under the laws of the United States. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) over all other claims set forth herein which form part of the same case or controversy.

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

#### Factual Allegations

8. At all relevant times, Defendant Jeffrey Epstein ("Epstein") was an adult male in his early 50's. Epstein is a financier and money manager with a secret clientele limited exclusively to billionaires. He is himself a man of tremendous wealth, power and influence. He maintains his principal home in New York and also owns residences in New Mexico, St. Thomas and Palm Beach, FL. The allegations herein concern Epstein's conduct while at his lavish estate in Palm Beach.

9. Upon information and belief, Epstein has a sexual preference and obsession for underage minor girls. He engaged in a plan and scheme in which he gained access to primarily economically disadvantaged minor girls in his home, sexually assaulted these girls, and then gave them money. In or about 2001, Jane Doe, then approximately 16 years old, fell into Epstein's trap and became one of his victims.

10. Upon information and belief, Jeffrey Epstein carried out his scheme and assaulted girls in Florida, New York and on his private island, known as Little St. James, in St. Thomas.

11. Epstein's scheme involved the use of young girls to recruit underage girls. These underage girls were recruited ostensibly to give a wealthy man a massage for monetary compensation

in his Palm Beach mansion. Epstein, upon information and belief, generally sought out economically disadvantaged underage girls from Palm Beach County who would be enticed by the money being offered - generally \$200 to \$300 per "massage" session - and who were perceived as less likely to complain to authorities or have credibility if allegations of improper conduct were made.

12. Epstein's plan and scheme reflected a particular pattern and method. The underage victim would be brought or directed to Epstein's mansion, where she would be led up a flight of stairs to a room that contained a massage table in addition to other furnishings. The girl would then find herself alone in the room with Epstein, who would be wearing only a towel. He would then remove his towel and lie naked on the massage table, and direct the girl to remove her clothes. Epstein would then perform one or more lewd, lascivious and sexual acts.

13. Consistent with the foregoing plan and scheme, Jane Doe was recruited by another girl, who told her that she could make some money, but did not tell her what was involved. At all relevant times, the girl who recruited Jane Doe was acting on behalf of and as agent for Epstein. Jane was contacted by this girl by telephone. Jane was then picked up and brought to Epstein's mansion in Palm Beach. Once there, she was led up the flight of stairs to the room with the massage table. Epstein came into the room and directed Jane to remove her clothes and give him a massage. Jane was frightened and felt trapped. As directed by Epstein, Jane removed her clothes. Epstein then during the massage touched Jane on her breasts and vagina, and he grabbed her hand and placed it on his penis. Epstein masturbated himself during the massage. Epstein then left money for Jane.

14. As a result of this encounter with Epstein, Jane experienced confusion, shame, humiliation and embarrassment, and has suffered severe psychological and emotional injuries.

24. Epstein committed willful acts of child sexual abuse on Jane Doe. These acts resulted in mental or sexual injury that caused or were likely to cause Jane Doe's mental or emotional health to be significantly impaired.

25. Epstein's conduct caused severe emotional distress to Jane Doe. Epstein knew or had reason to know that his intentional and outrageous conduct would cause emotional distress and damage to Jane Doe, or Epstein acted with reckless disregard of the high probability of causing severe emotional distress to Jane Doe.

26. As a direct and proximate result of Epstein's intentional or reckless conduct, Jane Doe has suffered and will continue to suffer severe mental anguish and pain, psychological and emotional injuries and loss of enjoyment of life.

WHEREFORE, Plaintiff Jane Doe No. 6 demands judgment against Defendant Jeffrey Epstein for compensatory damages, costs, punitive damages, and such other and further relief as this Court deems just and proper.

### COUNT III

#### Coercion and Enticement to Sexual Activity in Violation of 18 U.S.C. §2422

27. Plaintiff Jane Doe repeats and realleges paragraphs 1 through 14 above.

28. Epstein used a facility or means of interstate commerce to knowingly persuade, induce or entice Jane Doe, when she was under the age of 18 years, to engage in prostitution or sexual activity for which any person can be charged with a criminal offense.

29. On June 30, 2008, Epstein entered a plea of guilty to violations of Florida §§ 796.07 and 796.03, in the 15th Judicial Circuit in and for Palm Beach County (Case nos. 2008-cf-009381AXXXMB and 2006-cf-009454AXXXMB), for conduct involving the same plan and scheme as alleged herein.

30. As to Plaintiff Jane Doe, Epstein could have been charged with criminal violations of Florida Statute §796.07(2) (including subsections (c), (d), (e), (f), (g), and (h) thereof), and other criminal offenses including violations of Florida Statutes §§798.02 and 800.04 (including subsections (5), (6) and (7) thereof).

31. Epstein's acts and conduct are in violation of 18 U.S.C. §2422.

32. As a result of Epstein's violation of 18 U.S.C. §2422, Plaintiff has suffered personal injury, including mental, psychological and emotional damages.

33. Plaintiff hired Mermelstein & Horowitz, P.A. (f/k/a Herman & Mermelstein, P.A.), in this matter and agreed to pay them a reasonable attorneys' fee.

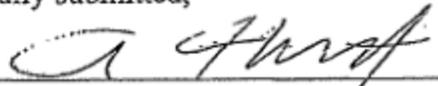
WHEREFORE, Plaintiff Jane Doe No. 6 demands judgment against Defendant Jeffrey Epstein for all damages available under 18 U.S.C. §2255(a), including without limitation, actual and compensatory damages, costs of suit, and attorneys' fees, and such other and further relief as this Court deems just and proper.

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial in this action on all claims so triable.

Dated: May 27, 2009

Respectfully submitted,

By: 

Stuart S. Mermelstein (FL Bar No. 947245)

Adam D. Horowitz (FL Bar No. 376980)

MERMELSTEIN & HOROWITZ, P.A.

*Attorneys for Plaintiff*

18205 Biscayne Blvd., Suite 2218

Miami, Florida 33160

Tel: 305-931-2200

Fax: 305-931-0877

MERMELSTEIN & HOROWITZ, P. A.

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA  
3 WEST PALM BEACH DIVISION  
4 CASE NO. 08-80119-CIV-MARRA

4 JANE DOE, et al.,

5 Plaintiffs,

6 vs.

7 JEFFREY EPSTEIN,

8 Defendant.

WEST PALM BEACH, FLORIDA

JUNE 12, 2009

9 X  
10  
11 TRANSCRIPT OF MOTION HEARING  
12 BEFORE THE HONORABLE KENNETH A. MARRA,  
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE PLAINTIFFS:

ADAM D. HOROWITZ, ESQ.  
Mermelstein & Horowitz  
18205 Biscayne Boulevard  
Miami, FL 33160 305.931.2200  
For Jane Doe

BRADLEY J. EDWARDS, ESQ.  
Rothstein Rosenfeldt Adler  
401 East Las Olas Boulevard  
Fort Lauderdale, FL 33301  
Jane Doe 3, 4, 5, 6, 7  
954.522.3456

ISIDRO M. GARCIA, ESQ.  
Garcia Elkins Boehringer  
224 Datura Avenue  
West Palm Beach, FL 33401  
Jane DOE II 561.832.8033

RICHARD H. WILLITS, ESQ.  
2290 10th Avenue North  
Lake Worth, FL 33461  
For [REDACTED] 561.582.7600

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ROBERT C. JOSEFSBERG, ESQ.  
Podhurst Orseck Josefsberg  
25 West Flagler Street  
Miami, FL 33130  
For Jane Doe 101 305.358.2800  
(Via telephone)

KATHERINE W. EZELL, ESQ.  
Podhurst Orseck Josefsberg  
25 West Flagler Street  
Miami, FL 33130  
For Jane Doe 101 305.358.2800

FOR THE DEFENDANT:

ROBERT D. CRITTON, JR., ESQ.  
MICHAEL BURMAN, ESQ.  
Burman Critton, etc.  
515 North Flagler Street  
West Palm Beach, FL 33401  
561.842.2820

JACK A. GOLDBERGER, ESQ.  
Atterbury Goldberger Weiss  
250 Australian Avenue South  
West Palm Beach, FL 33401  
561.659.8300

ANN MARIE VILLAFANA, ESQ.  
Assistant U.S. Attorney  
500 East Broward Boulevard  
Fort Lauderdale, FL 33394  
For U.S.A. 954.356.7255

MARTIN G. WEINBERG, ESQ.  
20 Park Plaza  
Boston MA 02116  
(Via telephone) 617.227.3700  
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 [REDACTED]..

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 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. Villafana, 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. VILLAFANA: 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