

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

[REDACTED]

Plaintiff,

v.

JEFFREY EPSTEIN and [REDACTED]
[REDACTED]

Defendants.

**PLAINTIFF, [REDACTED], RESPONSE TO DEFENDANT, JEFFREY
EPSTEIN'S MOTION FOR CONTINUANCE OF TRIAL (D.E. 150)**

Plaintiff, [REDACTED], by and through her undersigned counsel, hereby files her Response to Defendant, Jeffrey Epstein's, Motion for Continuance of Trial (D.E. 150), and in support thereof states as follows:

For what is now the third time since this litigation started, Defendant Epstein seeks again to delay the trial of this case. In an attempt to support his most recent attempt to delay the trial of this case, Epstein cites Plaintiff's inability to attend because of health problems her previously scheduled deposition on October 29, 2009. Epstein totally fails, however, to identify with any specificity whatsoever why it is that he is unable to prepare for the trial in this matter which is still three months away. Accordingly, Epstein's motion should be denied as it is entirely premature.

In support of his Motion for Continuance, Epstein incorrectly argues that Plaintiff has "failed" to attend her deposition on three separate occasions and has "history of no-

shows." Such an assertion is more of an ill-fated and unsubstantiated attempt in advocacy rather than a factually accurate recitation of the procedural history behind the scheduling of Plaintiff's deposition. While it is accurate that Epstein on August 5, 2009 unilaterally scheduled Plaintiff's deposition for August 14, 2009, Epstein fails to point out that Plaintiff was in the hospital suffering from what he acknowledges were serious and significant health issues. Furthermore, Epstein fails to point out that his unilateral scheduling of Plaintiff's deposition on August 14, 2009 was the subject of Plaintiff's Emergency Motion for Protective Order (D.E. 259) filed on August 10, 2009, which was granted by Magistrate Judge Linnea R. Johnson on August 11, 2009 (D.E. #261) before a response could be filed by Epstein because of the Court's belief that "there is no argument that can be raised by opposing counsel to justify denying the relief requested {in Plaintiff's Emergency Motion for Protective Order}". Accordingly, Plaintiff's August 14 deposition did not go forward because the Court granted Plaintiff's Emergency Motion for Protective Order given the fact that Plaintiff was in the hospital, not because she "failed to appear" or "no-showed."

After Plaintiff left the hospital on August 17, her deposition was scheduled for September 3, 2009 by mutual agreement of the parties. Ultimately, that deposition did not go forward as scheduled, not because Plaintiff "failed to appear" or "no-showed", but because counsel for Epstein himself cancelled the deposition because of Plaintiff's lingering health issues. To be clear, the undersigned is in no way faulting counsel for Epstein for his decision to cancel the September 3 deposition of Plaintiff because of her unresolved health issues. In fact, the undersigned both agreed and supported counsel for Epstein's decision to cancel same and felt that it was the right thing to do at the time,

even if it resulted in jeopardizing the February 22, 2010 trial date (which, of course, it has not). The fact of the matter remains, however, that Plaintiff's deposition did not go forward on September 3 as scheduled through no fault of either Plaintiff or Epstein. The undersigned points out the history associated with the scheduling of Plaintiff's September 3 deposition merely to correct the factual inaccuracies contained in Defendant's Motion For Continuance and not for the purpose of suggesting that any particular party is to be blamed for it not going forward as scheduled.

Plaintiff's deposition was, in fact, scheduled for October 29 pursuant to the mutual agreement of the parties. It is also true that Plaintiff did not appear for said deposition because of health reasons. Plaintiff sought treatment at Wellington Regional Hospital's Emergency Room later that same day to address her health problems.

The undersigned has offered the following dates to opposing counsel for Plaintiff's deposition: December 1, 10, and 11. Should Plaintiff's deposition go forward on one of those three dates, Defendant will not be prejudiced in any demonstrable way that would jeopardize the February 22 trial setting. First, it was Defendant Epstein who waited a year-and-a-half after the commencement of this litigation before even asking for Plaintiff's deposition.

Second, Defendant's claim that because of the difficulty in accomplishing Plaintiff's deposition, he has been "boxed-in and cannot go forward with discovery" rings hollow. Defendant has failed to point out to the Court one single discovery item that he has not been able to accomplish because of the difficulty in getting Plaintiff's deposition accomplished. To the contrary, Defendant has recently taken the depositions of Plaintiff's mother and two brothers. Additionally, Plaintiff on October 21, 2009, was

subjected to an entire day of being interviewed and tested by Defendant's C.M.E. psychiatrist. Rather, Defendant flatly asserts without any factual support whatsoever that he has been prejudiced by not being able to take Plaintiff's deposition yet. In fact, Defendant goes so far as to claim that because there is "no guarantee her deposition will go forward in the next time it is scheduled" some future prejudice might be inflicted upon Epstein warranting a continuance now.

Third, Epstein filed on October 30, 2009, his Motion to Extend Trial Deadlines (D.E. 149) to which the Plaintiff agreed (D.E. 152). The Court granted the relief requested by Epstein, including extending the deadline to complete discovery until December 30, 2009. (D.E. 154). Assuming one of the three dates previously provided to opposing counsel are agreeable, Plaintiff's deposition will occur within the discovery timeframe.

Fourth, should Plaintiff's deposition not go forward on one of the proposed dates and not within the discovery deadlines or some identifiable prejudice actually develops which would hamper Epstein's ability to try this case as scheduled, Epstein can certainly file yet another motion to continue for the Court's consideration.

WHEREFORE, Plaintiff, [REDACTED], respectfully requests that this Court deny Defendant's Motion for Continuance.

Respectfully submitted,

/s/Jack P. Hill

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 20th, 2009, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/Jack P. Hill

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