

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 10-CV-21586-ASG

PODHURST ORSECK,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

**DRAFT C**

**DEFENDANT'S NOTICE OF COMPLIANCE WITH  
COURT'S ORDER [DE 6]**

Defendant, JEFFREY EPSTEIN, (hereinafter "EPSTEIN") by and through his undersigned attorneys, hereby submits his compliance with the court's order [DE 6] and S.D. Fla. L.R. 3.8 and states:

1. Plaintiff, PODHURST ORSECK, (hereinafter "PODHURST") filed an action for attorneys fees and costs based on an agreement (Non-Prosecution Agreement – "NPA") under which the Plaintiff claims to be a third party beneficiary. Plaintiff is not a party to the agreement. Plaintiff and Defendant disagree on the amount of attorneys fees and costs to which Plaintiff is entitled, i.e. there is a fee dispute.

2. As referenced in paragraph 11 of the Complaint, §7C of the NPA provides that EPSTEIN'S obligation to pay attorneys fees and costs to the attorney representative (who came to be Robert Josefsberg) ceases upon the filing of contested litigation. Specifically, §7C states in part ". . . This provision, however, shall not obligate EPSTEIN to pay 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. § 2255 or elects to pursue any other contested

remedy, the paragraph 7 obligation of the Agreement to pay the cost of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in § 2255 to bear the costs of the attorney representative, shall cease.”

Plaintiff’s action seeks fees and costs only under EPSTEIN’S obligations under the NPA and prior to contested litigation being initiated.

3. PODHURST represented fifteen separate clients related to the NPA. Only three of the Plaintiff’s clients initiated lawsuits:

- a) Jane Doe 101 v. Epstein, Case No. 09-80591 - Marra/Johnson;
- b) Jane Doe 102 v. Epstein, Case No. 09-80656 - Marra/Johnson; and
- c) Jane Doe 103 v. Epstein, Case No. 10-80309 - Marra/Johnson

4. All three of these lawsuits have been settled and dismissed with prejudice. Judge Marra “closed” all three cases and retained jurisdiction only to enforce the terms of the settlement agreements, if necessary. There are no pending related cases.

5. While there are other cases pending against EPSTEIN in the Southern District, those cases are completely independent of and not governed by or related to any provision of the NPA, nor is the PODHURST firm involved in those cases.

6. The legal theory in this case is distinctly different from the legal theory asserted in the three closed cases and the other twelve matters which the PODHURST firm handled for its fifteen clients. This case is a fee dispute; the closed cases and the other twelve claims all were personal injury actions/claims asserted pursuant to 18 U.S.C. § 2255.

7. The law applicable to the 18 U.S.C. § 2255 claims is distinctly different from the law which will be applicable to determining the amount of reasonable fees and costs to which the PODHURST firm is entitled.

8. The parties in this case involve a law firm and EPSTEIN; the parties in the other fifteen matters involved personal injury plaintiffs and EPSTEIN. They are not similar. The factual issues in the fee dispute claim are not related to the personal injury claims which were asserted by the PODHURST clients.

9. The witnesses in this case (attorneys, paralegals and experts) are different than those witnesses which would have testified in the 18 U.S.C. § 2255 claims.

10. The judicial effort, legal theories, and applicable law are distinctly different and not similar to the closed cases.

11. The Rules Regulating the Florida Bar as they apply to attorneys fees claims have application in this case, and had no application in any of the other fifteen personal injury claims.

Therefore, the Defendant, EPSTEIN, believes that the *sub judice* is not a similar action nor proceeding; nor is there any pending related or previously filed related matter.

By: /s/ Robert D. Critton  
ROBERT D. CRITTON, JR., ESQ.  
Florida Bar No. 224162

**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 June, 2010:

Respectfully submitted,

By: /s/ Robert D. Critton  
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