

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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



Plaintiff,

v.

JEFFREY EPSTEIN and SARAH
KELLEN,

Defendants,

_____ /

DEFENDANT EPSTEIN'S MOTION TO STRIKE "PLAINTIFFS JANE DOE NO. 101 AND JANE DOE NO. 102's RESPONSE IN SUPPORT OF PLAINTIFF C.M.A.'s MOTION TO FILE SUR-REPLY TO DEFENDANT'S REPLY TO PLAINTIFF'S MEMORANDUM IN RESPONSE TO DEFENDANT'S MOTION TO DISMISS FIRST AMENDED COMPLAINT FOR FAILURE TO STATE A CAUSE OF ACTION AND MOTION FOR MORE DEFINITE STATEMENT", (dated 5/21/09)

Defendant, JEFFREY EPSTEIN, by and through his undersigned counsel, moves to strike *Plaintiffs Jane Doe No. 101 And Jane Doe No. 102's Response In Support Of Plaintiff [REDACTED] Motion To File Sur-Reply To Defendant's Reply To Plaintiff's Memorandum In Response To Defendant's Motion to Dismiss First Amended Complaint For Failure to State A Cause of Action And Motion for More Definite Statement*, dated May 21, 2009, (hereinafter "JD 101 & 102's response"). Defendant states:

1. JD 101 & 102's response is required to be stricken as there is absolutely no legal basis which would allow them as Plaintiffs in another action to file substantive arguments on behalf of another Plaintiff, [REDACTED] in a separate action, in an effort to advance their position in another action and in an effort to rectify the Plaintiff [REDACTED] failure to, and choice not to, address substantive legal issues in her response to Defendant's motion to dismiss in this action. Simply put, JD 101 & 102 are not parties

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to this action; they have each filed separate and distinct actions against Defendant EPSTEIN. Any substantive arguments they want to make can be advanced in each of their separately filed actions, not in an action filed by another Plaintiff, [REDACTED] – who like JD 101 & 102 has her own legal representative.

2. This Court's previously entered order regarding consolidation, dated May 14, 2009 [Document 82], was for common discovery and procedural motions only. There is absolutely nothing in the order that would allow the multiple Plaintiffs in the separately filed actions against EPSTEIN to file multiple and duplicative substantive motions and legal memorandums in all of the cases. JD 101 & 102's response concedes that the issue raised is a substantive, not procedural one. (JD 101 & 102's response, ¶15).

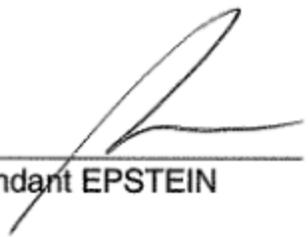
3. Allowing the multiple plaintiffs to "gang-up" in the separately filed actions flies in the face of the constitutional guarantees of due process. As well, it is a waste of judicial resources, and would be more costly and timely if multiple non-parties were allowed to file substantive motions and legal memorandum in the various actions against EPSTEIN. Each Plaintiff has her own action in which to fight her substantive legal battles, based on the distinct facts and issues as raised by the pleading in a particular case. A plaintiff should not be given multiple bites of multiple apples in order to advance her position in a separately filed action.

4. Moreover, this Court, on May 28, 2009, denied Plaintiffs Motion for Leave to file brief as Amicus Curiae (DE 63). EPSTEIN's Response in Opposition to File brief as Amicus Curiae is, therefore, incorporated herein by reference. For the same reasons

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outlined in the Response in Opposition to file brief as Amicus Curiae, as well as the facts set forth in this motion, the Court should deny the motion to file sur-reply.

WHEREFORE, Defendant respectfully requests that this Court strike Plaintiff JD 101 & 102's response.

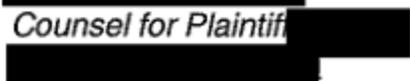


Counsel for Defendant EPSTEIN

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 May, 2009

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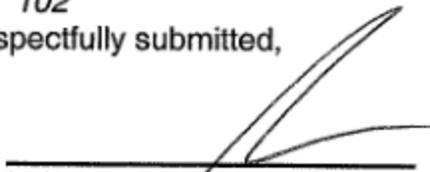
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Respectfully submitted,

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