

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 10-CV-21586-ASG

PODHURST ORSECK,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

_____/

**DEFENDANT'S NOTICE AND MOTION FOR LEAVE TO DEPOSIT FUNDS INTO THE
REGISTRY OF THE COURT
WITH INCORPORATED MEMORANDUM OF LAW**

Defendant, JEFFREY EPSTEIN, (hereinafter "Epstein") by and through his undersigned attorneys and pursuant to Federal Rule 67 and Local Rule 67.1, hereby files his Notice and Motion for Leave to Deposit Funds Into the Registry of the Court. In support, Epstein states as follows:

1. On May 17, 2010, Plaintiff, Podhurst Orseck, P.A. ("Podhurst"), filed a Two Count Complaint against Epstein seeking money damages for Breach of Third Party Agreement (Count-I) and Breach of Covenant of Good Faith and Fair Dealing (Count – II). DE 1.

2. In the Complaint, Plaintiff claims money damages in excess of \$2,000,000, which allegedly represent attorneys' fees and costs incurred by Podhurst in connection with (a) its representation of certain individuals, (2) that certain Non-Prosecution Agreement and Addendum thereto (the "NPA") attached to the Complaint as exhibits and (3) breach of the NPA.

3. There is no question that Plaintiff seeks a money damages based upon its allegations of breach of contract throughout the Complaint, which allows a deposit under Fed. R. Civ. Pro. 67.

4. Defendant is prepared to immediately pay any sums that this court deems are owed by Defendant to Plaintiff. However, Epstein reasonably and in good faith believes that all of the monies claimed by Podhurst are in fact not reasonably recoverable against Epstein.

5. Therefore, Defendant, by and through his undersigned attorneys, hereby moves the court, pursuant to Fed. R. Civ. P. 67 and Local rule 67.1, for leave to deposit with the court the amount of \$2,000,000, such being substantially all of the contested funds claimed under the Complaint (DE 1), on the grounds that no funds be released to Plaintiff until such time as an appropriate judicial decision is made regarding the claims asserted in this action and an appropriate order/judgment is entered by the court addressing same.

6. Rule 67, Deposit into Court, provides as follows:

(a) Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party--on notice to every other party and by leave of court--may deposit with the court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the clerk a copy of the order permitting deposit.

(b) Investing and Withdrawing Funds. Money paid into court under this rule must be deposited and withdrawn in accordance with [28 U.S.C. §§ 2041](#) and [2042](#) and any like statute. The money must be deposited in an interest-bearing account or invested in a court-approved, interest-bearing instrument.

7. Epstein seeks an order from this Court permitting the deposit on the clerk of court in order to assure that the clerk knows what is being deposited and what the clerk's responsibilities are with respect to said deposit including, but not limited to, pending a determination of what amount deposited should be paid to Podhurst, in whole or in part, and/or whether a certain sum should be returned to Epstein. Once an order is so entered, Epstein, through his attorneys, will serve the order entered upon the clerk of court as required by Fed. R. Civ. P. 67 and Local Rule 67.1.

8. Allowing such a deposit is permissible pursuant to Fed. R. Civ. P. 67, and courts frequently require that the funds be so deposited so that it may be preserved.

9. Notice has been given to all parties by virtue of the filing of this Motion.

Wherefore, Epstein requests that the court enter an order granting Epstein leave to deposit the \$2,000,000 into the Registry of the Court, and directing the clerk to accept same, advising the clerk of its responsibilities with respect to said deposit including, but not limited to, pending a determination of what amount deposited should be paid to Podhurst, in whole or in part, and/or whether a certain sum should be returned to Epstein after a final determination has been made, ordering that the clerk not release any funds until such time as an order/judgment has been entered, advising the clerk, if applicable, where to deposit said funds (i.e., with the Treasurer of the United States or a designated depository in the name and to the credit of such court), and for such other and further relief as the court deems just and proper.

By: /s/ Michael J. Pike
ROBERT D. CRITTON, JR., ESQ.
MICHAEL J. PIKE, ESQ.

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 18TH day of May, 2010:

Respectfully submitted,

By: /s/ Michael J. Pike

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