

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CIV- 80893 – MARRA/JOHNSON

JANE DOE,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendants.

**EPSTEIN'S MOTION PURSUANT TO FED. R. EVID. 412(c)
TO ADMIT EVIDENCE OF JANE DOE'S AND OTHER WITNESSES' SEXUAL
HISTORY AND INCORPORATED MOTION FOR LEAVE TO FILE SUPPLEMENTAL
MOTION PURSUANT TO RULE 412(c) REGARDING OTHER WITNESSES**

Defendant, JEFFREY EPSTEIN ("Epstein"), pursuant to Fed. R. Evid. 412(c), moves to admit evidence of Jane Doe's and other witnesses' sexual history and moves for leave to file a supplemental motion pursuant to Rule 412 (c) regarding other witnesses' sexual history, and states:

1. Epstein files the instant motion pursuant to Rule 412(c), Federal Rules of Evidence, which provides that a party intending to offer evidence to prove the sexual behavior or sexual predisposition of any alleged victim "must file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered...." See Fed. R. Evid. 412(c).

2. The motion is being filed under seal pursuant to Rule 412(c)(2), Federal Rules of Evidence and is being served on the parties pursuant to Rule 412(c)(1)(B). There is no need to "notify the alleged victim" as the alleged victim in this case is also the Plaintiff, Jane Doe. See Fed. R. Evid. 412(c)(1)(B).

3. Epstein requests the Court hold a “hearing in camera,” which is required pursuant to Rule 412(c)(2) to determine the admissibility of the evidence and “to afford the victim and parties a right to attend and be heard.”

Applicable Legal Principals and Case Law

4. Rule 412(a)(2), Federal Rules of Evidence, provides that “evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party.”

5. “The determination under such a balancing test is necessarily highly fact specific.” See Judd v. Rodman, 105 F.3d 1339, 1343 (11th Cir. 1997).

6. Rule 412 “by no means prohibits evidence of the alleged victim’s sexual conduct or sexual predisposition, for such evidence may be highly relevant in many civil cases.” See Blackmon v. Buckner, 932 F. Supp. 1126, 1128 (S.D. Ind. 1996).

7. In Blackmon, the plaintiff was sexually assaulted in the county jail by other inmates and sued jail officials, contending they violated his constitutional rights by acting with deliberate indifference to the threat posed to plaintiff by other inmates. See Blackmon, 932 F. Supp. at 1126. The plaintiff asserted he was the target of sexual taunting and harassment by other inmates. Id. at 1128. The court found that plaintiff’s own sexual behavior (teasing and taunting of inmates) was relevant and admissible as it “concerns a matter that plaintiff himself has put in dispute.” Id. The defendants were entitled to rebut plaintiff’s accusation that he was the target of teasing and taunting by introducing evidence “that plaintiff himself was engaging in teasing and taunting.”

8. Moreover, a defendant is entitled to make reasonable attacks on a plaintiff's credibility and motive and "[t]he fact that this attack on credibility and motive involves plaintiff's sexual conduct does not prohibit its use." *Id.* at 1129.

9. In addition, in *Delaney v. City of Hampton*, 999 F. Supp. 794, 795 (E.D. Va. 1997), plaintiff sued the city and a former co-worker for sexual harassment, which she claimed caused "severe emotional distress which has led to Post Traumatic Stress Disorder...." The court admitted evidence of the plaintiff's prior sexual abuse "to show that other stressors in her life besides the alleged abuse by [defendant] might be responsible for her psychiatric condition [as] [t]his evidence would be highly probative as to both liability and damages." *Id.* at 796.

10. Last, in *Alberts v. Wickes Lumber Co.*, 1995 WL 117886 *4 (N.D. Ill. 1995), the plaintiff sued her co-worker for sexual harassment, claiming that it caused severe emotional impairment and traumatized her. However, several weeks after the alleged incident, the plaintiff consented to meeting the alleged attacker in her car in the garage of her home so she could show him the stereo system, at which time the defendant opened the glove compartment and saw condoms. *Id.* at *3. The court found that such evidence was relevant to her damage claims because "[a] person so traumatized would not place herself in such a position. The behavior is not what one would expect if the plaintiff's claims of emotional trauma are true." *Id.* at 4. The court suggested the probative value of such evidence outweighs the danger of damage or unfair prejudice. *Id.* Finally, the court observed that to allow plaintiff "to use these alleged experiences as evidence of her damages, but at the same time deny [defendant] the opportunity to prove that these claims are not true, would turn the rape 'shield' law into a sword solely for the plaintiff's benefit." *Id.* at *5.

Jane Doe's Prior Sexual Experiences

11. First, evidence of Jane Doe's sexual experiences prior to her first alleged encounter with Epstein is relevant and admissible. Jane Doe has given conflicting accounts regarding the first time she had sex (i.e. whether it was before or after meeting Epstein). She testified in deposition that "[p]robably a few months after I met Jeffrey Epstein I had sex with my first boyfriend," [REDACTED] [REDACTED]. See 9/30/09 Deposition of Jane Doe ("Doe Depo") at 311 (relevant excerpts of Jane Doe's deposition transcript are attached as **Exhibit A**). She also testified that she did not have any sexual experiences prior to meeting Epstein – she had not touched a man's penis, a man had never touched her breast or any part of her genitalia, she had never given a man oral sex, had never had sexual intercourse or anal sex and had never disrobed or exposed her breasts to a male. *Id.* at 233-35.

12. On the other hand, Jane Doe told Epstein's expert, Ryan Hall, M.D., that she did, in fact, have sex with [REDACTED] [REDACTED] prior to meeting Epstein. See 11/13/09 CME Transcript of Jane Doe ("CME Transcript") at 86 (relevant excerpts of Jane Doe's CME Transcript are attached as **Exhibit B**). Jane Doe also stated the first time she went Epstein's house was "right after him [REDACTED] [REDACTED] and I were broken up," suggesting she had sex with [REDACTED] before meeting Epstein. *Id.* at 62-63.

13. [REDACTED] [REDACTED], one of Jane Doe's ex-boyfriends, testified that Jane Doe told him that she slept with [REDACTED] when she was 12 or 13 years old, which would be approximately 1 – 2 years before she met Epstein. See 5/11/10 Deposition of [REDACTED] [REDACTED] ("[REDACTED] Depo") at 42 (relevant excerpts of [REDACTED] deposition transcript are attached as **Exhibit C**)

14. There is also conflicting testimony regarding the number of times Jane Doe had sex with [REDACTED]. Jane Doe told Dr. Hall and her own expert, L. Dennison Reed, Psy.D., that

she only had sex with [REDACTED] once. See CME Transcript at 86; see also 4/2/10 Report of L. Dennison Reed, Psy.D (“Reed Report”) at 13 (relevant excerpts of Reed’s Report are attached as **Exhibit E**). . However, [REDACTED] Jane Doe’s “best friend” from the time Jane Doe was 13, testified that Jane Doe probably had sex with [REDACTED] more than five times. See 5/11/10 Deposition of [REDACTED] at 41 (relevant excerpts of [REDACTED] deposition transcript are attached as **Exhibit D**).

15. The issue is relevant because her expert witness, Dr. Reed, describes Jane Doe as “a sexually inexperienced and naïve 14-year old girl [making her] the ‘perfect victim’ for the likes of Jeffrey Epstein....” See Reed Report at 9. Dr. Reed also suggests that because Jane Doe was sexually inexperienced and “hadn’t even engaged in petting or foreplay before meeting Epstein, [Jane Doe] didn’t comprehend what was going on” and Epstein’s advances “were initially quite confusing and disorienting to her.” Id. at 13. Jane Doe has opened the door to evidence of her sexual experience with [REDACTED] by putting her sexual inexperience at issue. See Blackmon, 932 F.Supp. at 1129 (holding that where plaintiff puts an issue in dispute, defendant is entitled to rebut plaintiff’s evidence with plaintiff’s own conduct).

16. Dr. Reed acknowledges the discrepancy between Jane Doe’s statement to Dr. Hall, that she had sex with [REDACTED] prior to meeting Epstein, and her current position – “she told me upon further reflection that she was ‘sure’ that the one and only time she had intercourse with [REDACTED] was after Epstein began abusing her.” See Reed Report at 13.

17. Thus, Jane Doe’s sexual experiences with [REDACTED] are highly relevant. If she did have sex with [REDACTED] prior to meeting Epstein, this would controvert Dr. Reed’s opinions regarding Jane Doe being sexually inexperienced and naïve, making her the “perfect victim,” and that Epstein’s advances were confusing and disorienting because she had not even engaged in foreplay or petting. Allowing Jane Doe to use her sexual “[in]experience as

evidence of her damages, but at the same time deny [Epstein] the opportunity to prove that [this claim] [is] not true, would be to turn the rape 'shield' law into a sword solely for the plaintiff's benefit." See Alberts, 1995 WL 117886 at *5.

18. The issue also goes to her credibility. This is not the only subject on which Jane Doe has changed her "story" to benefit her case.¹ Dr. Reed admits that "[Jane Doe's] recollections about events happening years ago vary somewhat from interview to interview [which] is to be expected ... [w]hen there are strong motivations to 'block out' certain painful memories." See Reed Report at 5. Epstein should be permitted to question Jane Doe and other witnesses about the inconsistencies regarding the first time she had sex and also question Dr. Reed about his explanation for Jane Doe's inconsistencies. See Blackmon, 932 F.Supp. at 1129 (holding that a defendant is entitled to make reasonable attacks on a plaintiff's credibility and motive and "[t]he fact that this attack on credibility and motive involves plaintiff's sexual conduct does not prohibit its use.").

19. Accordingly, Epstein should be allowed to introduce evidence regarding Jane Doe's sexual experiences with [REDACTED] an issue in which she has given conflicting accounts. Such evidence is highly probative for the reasons stated above and there is no danger of harm or unfair prejudice to Jane Doe as the issue merely concerns her first sexual partner. The evidence is not being introduced, for example, to impugn her character or show that Jane Doe was sexually promiscuous prior to meeting Epstein. Indeed, it only concerns one individual.

20. In accordance with Rule 412(c)(1)(A), Federal Rules of Evidence, the specific evidence Epstein intends to introduce regarding Jane Doe's past sexual history is as follows:

¹ For example, on July 17, 2007, Jane Doe told an investigator that she did not remove her clothes when she gave Epstein a massage, she denied seeing Epstein masturbate during the massage, stated that Epstein was "nice" and treated her with respect and that she was paid \$100 for the massage. This statement directly contradicts her current allegations.

Evidence	Purposes For Which It Is Offered
The first time Jane Doe had sex with [REDACTED]	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim" and that Epstein's advances were confusing and disorienting because she had not even engaged in foreplay or petting.</p> <p>To controvert Jane Doe's testimony that prior to meeting Epstein, she had not touched a man's penis, a man had never touched her breast or any part of her genitalia, she had never given a man oral sex, had never had sexual intercourse or anal sex and had never disrobed or exposed her breasts to a male.</p> <p>To test Jane Doe's credibility since she gave conflicting accounts of when she first had sex.</p>
The number of times Jane Doe had sex with [REDACTED]	To test Jane Doe's credibility since she gave conflicting accounts of when she first had sex and the number of times she had sex with [REDACTED].
The place or places where Jane Doe had sex with [REDACTED]	To test Jane Doe's credibility since she gave conflicting accounts of when she first had sex and the number of times she had sex with [REDACTED].
The details of Jane Doe's sexual experience(s) with [REDACTED]	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim" and that Epstein's advances were confusing and disorienting because she had not even engaged in foreplay or petting.</p> <p>To controvert Jane Doe's testimony that she had not touched a man's penis, a man had never touched her breast or any part of her genitalia, she had never given a man oral sex, had never had sexual intercourse or anal sex and had never disrobed or exposed her breasts to a male.</p>

Jane Doe's Sexual Experiences in 2003 - 2005

21. Evidence of Jane Doe's sexual behavior during the time she was going to Epstein's house is relevant to Jane Doe's theory of liability and alleged damages.

22. Dr. Reed asserts that Jane Doe was experiencing significant distress during the time she was allegedly going to Epstein's house, which Jane Doe alleges was between February 2003 and June 2005. See First Am. Compl. (DE #38) ¶18.

23. Dr. Reed opined that Jane Doe's "level of distress during or around the time of Epstein's abuse (i.e. peritraumatic distress) was also significantly greater than the level of distress experienced by the 'average' trauma exposed individual. In [Jane Doe's] case, intense feelings of helplessness, guilt, and shame contributed to her peritraumatic distress." See Reed Report at 27.

24. Epstein intends to introduce evidence of Jane Doe's relationships with other males during the 2003 – 2005 time period to refute the contention that Jane Doe was experiencing "significantly greater" distress than the average trauma exposed individual. Alternatively, if she was experiencing significant distress, evidence of her sexual relationship with other males will demonstrate that it did not have a significant impact on her sex life and may be attributable to other traumatic events in Jane Doe's past. See infra.

25. For example, [REDACTED], Jane Doe's ex-boyfriend, testified that they had intercourse approximately 10 times per week over a two year period during the time Jane Doe was allegedly going to Epstein's house. See [REDACTED] Depo at 30-31. They also engaged in oral and anal sex. Id. Mr. [REDACTED] testified that sometimes Jane Doe seemed a little distant or was "not in the mood" for sex. Id. at 32. But when asked about the reason for the perceived "distance," [REDACTED] testified that she was on drugs and "had family problems and stuff." Id. at 32-33. He did not attribute it to Epstein.

26. Despite occasionally being "not in the mood," Jane Doe and [REDACTED] were regularly having sex, 10 times per week on average, during their two-year relationship. If Jane Doe was under "significant distress," it did not manifest itself in her sex life with [REDACTED].

27. Jane Doe also testified that [REDACTED] hit her on several occasions and described him as a "stalker" with a drug problem. See Doe Depo at 481, 483. Jane Doe also smashed [REDACTED] windshield with a machete. Id. at 483. Thus, if Jane Doe was experiencing

significant distress, it may have been a result of her tumultuous relationship with [REDACTED] and/or other traumatic events in her past, such as visiting her father in prison from ages 3 – 10 (see Reed Report at 6); witnessing her father beat his girlfriend's son to death when she was 12 (*id.* at 7); giving false testimony in court that he had not beaten the child (*id.* at 8); her mother not feeding her and being addicted to crack cocaine (see Doe Depo at 357); her uncle punching her in the face (*id.* at 358); physical fights with siblings (*id.* at 362); being attacked by her mother's pit bull (see Reed Report at 6); and running away from home on several occasions (*id.* at 7), among other things.

28. Jane Doe's relationship with [REDACTED] and their sexual activity is relevant to whether she experienced significant traumatic distress during the time she was allegedly going to Epstein's house, as maintained by Dr. Reed. A normal, healthy sex life suggests a lack of distress. Even if she was distressed, the evidence is relevant to demonstrate that it was not affecting her sex life and may have been caused by someone or something other than Epstein. This "behavior is not what one would expect if the plaintiff's claims of emotional trauma are true," and as such is relevant to her alleged damages and should be admissible. See *Alberts*, 1995 WL 117886 at *4.

29. Jane Doe also had sexual relationships with several other males during the time she was allegedly going to Epstein's house. For example, she testified she had sex with [REDACTED] on 3-4 occasions when she was 15 or 16 years old (after [REDACTED] [REDACTED] and before [REDACTED] [REDACTED]). See Doe Depo at 480, 483-84. She also had sex with [REDACTED] more than 10 times. *Id.* at 484. Evidence that Jane Doe had sex with these two individuals is relevant to show that Jane Doe had a relatively normal sex life during the time she was allegedly going to Epstein's house, which contradicts the assertion that she was under significant distress during

this time period. See Blackmon, 932 F.Supp. at 1129 (holding that where plaintiff puts an issue in dispute, defendant is entitled to rebut plaintiff's claim with plaintiff's own conduct).

30. Jane Doe also had sexual relationship with [REDACTED] for approximately eight (8) months. See Doe Depo at 487. Her relationship with [REDACTED] is relevant for the same reasons as Jane Doe's sexual experiences with [REDACTED] and [REDACTED] and is additionally relevant because he is the brother of [REDACTED], [REDACTED] ex-boyfriend and father of [REDACTED] child. [REDACTED] was a friend of Jane Doe who brought her to Epstein's house for the first time. Jane Doe's relationship with [REDACTED] essentially "connects the dots" to her relationship with [REDACTED]

31. Jane Doe's sexual experiences during 2003 – 2005 also go to the issue of choice and volition. Dr. Reed asserts and Jane Doe has stated that she felt as though she could not say "no" to Epstein. However, Jane Doe declined Epstein's alleged requests for oral sex and intercourse. See Reed Report at 13-14. If Jane Doe was having intercourse and oral sex with other males at the time she was allegedly going to Epstein's house, this would suggest that Jane Doe understood sex and sexuality and drew specific boundaries about what she would and would not do with Epstein.

32. It also contradicts Dr. Reed's opinion that Epstein psychologically manipulated and "groomed" Jane Doe to obtain her trust "over a period of time" so she would "freely choose to reciprocate ... by becoming sexually responsive." See Reed Report at 9-10. If Jane Doe was having sex with other individuals while she was allegedly going to Epstein's house, and at the same time continuing to give Epstein nude massages but refusing to engage in intercourse or oral sex, such evidence would suggest that Jane Doe was not psychologically manipulated, but rather made a conscious decision regarding what she was willing to do for money.

33. Indeed, Jane Doe told [REDACTED] [REDACTED] that she was cleaning an elderly lady's house in Palm Beach for \$300 - \$500. See [REDACTED] Depo at 22-23. When money got tight, Jane

Doe would say “I’ll call the lady from Palm Beach and see if she wants me to clean her house.” *Id.* at 23. ██████ testified that “Jane Doe seemed happy when she had the money” and would tell him “hey, look how much money I made.” *Id.* at 22-23.

34. During the two and a half year period Jane Doe alleges she went to Epstein’s house, she became more sexually experienced and had different types of relationships – a few sexual experiences with ██████ a steady 2-year relationship with ██████ ██████ and sexual relationships with ██████ and ██████ Yet despite her sexual maturation during 2003 – 2005, she continued to go to Epstein’s house.

35. Even assuming *arguendo* that Jane Doe was “sexually inexperienced” when she first allegedly went to Epstein’s house² and thus the “perfect victim” for Epstein to psychologically manipulate into a compliant victim (*see* Reed Report at 9), evidence of her sexual experiences during the time she was going to Epstein’s house is relevant to show she became sexually experienced over that time period and continued to go to Epstein’s house. Her sexual experiences are relevant to test Dr. Reed’s theory regarding Jane Doe’s sexual inexperience and naivety as contributing to her “victimization” by Epstein. How does Dr. Reed account for Jane Doe continuing to go to Epstein’s house after she passed the “sexually inexperienced” phase? Again, Jane Doe has opened the door to evidence of her sexual relationships during the time she was going to Epstein’s house by placing her sexual inexperience at issue. Allowing Jane Doe to use her sexual “[in]experience as evidence of her damages, but at the same time deny [Epstein] the opportunity to prove that [this] claim[] [is] not true, would be to turn the rape ‘shield’ law into a sword solely for the plaintiff’s benefit.” *See* Alberts, 1995 WL 117886 at *5.

² *See supra* as to the discrepancy regarding whether Jane Doe had sex for the first time before or after she started allegedly going to Epstein’s house.

36. Again, this evidence is not being offered to impugn Jane Doe's character or to suggest she was sexually promiscuous. To the contrary, the evidence suggests Jane Doe's sex life during 2003 – 2005 was relatively normal. Thus, the likelihood of unfair prejudice or harm is minimal to non-existent. The probative value, as explained above, is substantial.

37. In accordance with Rule 412(c)(1)(A), Federal Rules of Evidence, the specific evidence Epstein intends to introduce regarding Jane Doe's sexual experiences during 2003 - 2005 is as follows:

Evidence	Purposes For Which It Is Offered
<p>Jane Doe's relationship, including sexual relationship, with ██████████. This includes the frequency of sex with ██████████ and the types of sex they had.</p>	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim." Evidence of Jane Doe's relationship with ██████████ demonstrates that Jane Doe eventually became sexually experienced yet continued to go to Epstein's house.</p> <p>To contradict Jane Doe's testimony that she felt she could not say "no" to Epstein. Jane Doe made a conscious decision not to have intercourse or oral sex with Epstein. Jane Doe's sexual experiences with ██████████ during that same time period demonstrate that she chose to engage in those acts with him, but would not do the same with Epstein. For the same reasons, this evidence rebuts Dr. Reed's contention that Epstein psychologically manipulated and "groomed" Jane Doe to be a compliant victim.</p> <p>To refute the contention that Jane Doe was experiencing "significantly greater" distress than the average trauma exposed individual during the time she was going to Epstein's house. Alternatively, if she was experiencing distress, the evidence will suggest it did not affect her sex life with ██████████.</p> <p>To demonstrate Jane Doe's sexual maturation during the time she was going to Epstein's house.</p>

<p>Jane Doe's sexual relationship with [REDACTED] including the number of times she had sex with him and the types of sex they had.</p>	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim." Evidence of Jane Doe's relationship with [REDACTED] demonstrates that Jane Doe eventually became sexually experienced yet continued to go to Epstein's house.</p> <p>To contradict Jane Doe's testimony that she felt she could not say "no" to Epstein. Jane Doe made a conscious decision not to have intercourse or oral sex with Epstein. Jane Doe's sexual experiences with "George" during that same time period demonstrate that she chose to engage in those acts with him, but would not do the same with Epstein. For the same reasons, this evidence rebuts Dr. Reed's contention that Epstein psychologically manipulated and "groomed" Jane Doe to be a compliant victim.</p> <p>To refute the contention that Jane Doe was experiencing "significantly greater" distress than the average trauma exposed individual during the time she was going to Epstein's house. This evidence suggests that Jane Doe had a relatively normal sex life during 2003 – 2005.</p> <p>To demonstrate Jane Doe's sexual maturation during the time she was going to Epstein's house.</p>
<p>Jane Doe's sexual relationship with [REDACTED] including the number of times she had sex with him and the types of sex they had.</p>	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim." Evidence of Jane Doe's relationship with [REDACTED] demonstrates that Jane Doe eventually became sexually experienced yet continued to go to Epstein's house.</p> <p>To contradict Jane Doe's testimony that she felt she could not say "no" to Epstein. Jane Doe made a conscious decision not to have intercourse or oral sex with Epstein. Jane Doe's sexual experiences with [REDACTED] during that same time period demonstrate that she chose to engage in those acts with him, but would not do the same with Epstein. For the same reasons, this evidence rebuts Dr. Reed's contention that Epstein psychologically manipulated and "groomed" Jane Doe to be a compliant victim.</p> <p>To refute the contention that Jane Doe was experiencing "significantly greater" distress than the average trauma exposed individual during the time she was going to Epstein's house. This evidence suggests that Jane Doe had a relatively normal sex life during 2003 – 2005.</p> <p>To demonstrate Jane Doe's sexual maturation during the time she was going to Epstein's house.</p>

<p>Jane Doe's sexual relationship with [REDACTED] including the number of times she had sex with him and the types of sex they had.</p>	<p>To controvert Dr. Reed's opinions and any argument by Jane Doe's counsel regarding Jane Doe being sexually inexperienced and naïve, making her the "perfect victim." Evidence of Jane Doe's relationship with [REDACTED] demonstrates that Jane Doe eventually became sexually experienced yet continued to go to Epstein's house.</p> <p>To contradict Jane Doe's testimony that she felt she could not say "no" to Epstein. Jane Doe made a conscious decision not to have intercourse or oral sex with Epstein. Jane Doe's sexual experiences with Sprague during that same time period demonstrate that she chose to engage in those acts with him, but would not do the same with Epstein. For the same reasons, this evidence rebuts Dr. Reed's contention that Epstein psychologically manipulated and "groomed" Jane Doe to be a compliant victim.</p> <p>To refute the contention that Jane Doe was experiencing "significantly greater" distress than the average trauma exposed individual during the time she was going to Epstein's house. This evidence suggests that Jane Doe had a relatively normal sex life during 2003 – 2005.</p> <p>To demonstrate Jane Doe's sexual maturation during the time she was going to Epstein's house.</p> <p>To explain the dynamic of the relationship between Jane Doe and [REDACTED] brother, [REDACTED] is the ex-boyfriend of [REDACTED] and the father of [REDACTED] child. [REDACTED] brought Jane Doe to Epstein's house for the first time.</p>
-----------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Jane Doe's Subsequent Sexual Activity and Employment as a Stripper

38. Jane Doe's sexual relationship with [REDACTED] her current boyfriend of over three years and father of her child, is relevant to Jane Doe's damages.

39. Specifically, Jane Doe told Epstein's expert, Dr. [REDACTED], that she has a normal and satisfying sexual relationship with [REDACTED] and that they have sex twice per week and take turns initiating it. See CME Transcript at 179-80.

40. Dr. Reed also concludes that Jane Doe's responses to the Trauma Symptom Inventory "were within normal limits" regarding "sexual concerns." See Reed Report at 27.

41. Epstein should be permitted to offer evidence regarding Jane Doe's sexual relationship with [REDACTED] specifically, that is normal and satisfying and **not** a part of her damages. If the jury does not hear this evidence, they will be left to speculate as to whether Jane Doe's ability to have a satisfying sexual relationship has been affected by Epstein's alleged conduct.

42. Next, when Jane Doe was 18 years old, subsequent to her alleged encounters with Epstein, she worked as a stripper. See Reed Report at 22.

43. Dr. Reed opined that "Epstein's sexual abuse of Jane Doe clearly predisposed her to enter into this profession." See Reed Report at 22. Dr. Reed also notes that "[v]ictims of child sexual abuse are disproportionately represented among women who work as strippers" and are often motivated by the "sense of being 'in control' in the sexual arena." Id.

44. Dr. Reed has opened the door to evidence of Jane Doe's employment as a stripper by attributing it to Epstein. Epstein should be entitled to cross-examine Jane Doe regarding the details of her work as a stripper. Did Jane Doe do it to gain a sense of being in control, as suggested by Dr. Reed? Are there other reasons Jane Doe might have worked as stripper unrelated to Epstein? Certainly, Epstein should be permitted to delve into these subjects to rebut Dr. Reed's opinion that Epstein predisposed Jane Doe to become a stripper. See Judd v. Rodman, 105 F.3d 1339, 1343 (11th Cir. 1997) (holding that the district court did not abuse its discretion in admitting evidence that plaintiff worked as a stripper as it was relevant to her damages for emotional distress); Blackmon, 932 F.Supp. at 1129 (holding that where plaintiff puts an issue in dispute, defendant is entitled to rebut plaintiff's claim with plaintiff's own conduct).

45. Moreover, Jane Doe met her current boyfriend, [REDACTED], while working as a stripper. See Doe Depo at 491. Thus, to the extent Jane Doe attempts to blame Epstein for allegedly causing her predisposition to become a stripper, Epstein should be permitted to point

out that Jane Doe met her current boyfriend and the father of her child (a relationship in which she is happy and satisfied) while so employed.

46. In accordance with Rule 412(c)(1)(A), Federal Rules of Evidence, the specific evidence Epstein intends to introduce regarding Jane Doe's sexual experiences subsequent to her alleged encounters with Epstein and employment as a stripper:

Evidence	Purposes For Which It Is Offered
Jane Doe's relationship, including sexual relationship, with [REDACTED]. This includes the frequency of sex with Batu, the types of sex they have and her feeling about their sexual relationship.	To demonstrate that Jane Doe has a normal and satisfying sexual relationship with her current boyfriend and that she is not claiming any damages in that regard.
Jane Doe's employment as a stripper, including the relevant time periods, the establishments where she worked [REDACTED], the nature of the work, and the circumstances surrounding her meeting Batu.	To controvert Dr. Reed's assertion that Epstein essentially caused Jane Doe to become a stripper. To establish that Jane Doe met her current boyfriend and father of her child, [REDACTED] while working as a stripper. To the extent Jane Doe suggests it was Epstein's "fault" that she became a stripper, evidence of that she started her current relationship, which she contends she is happy and satisfied with, while working as a stripper should be admitted counter the suggestion that it was a negative experience for her.

Evidence of Sexual History of Other Females

47. Epstein and Jane Doe intend to call [REDACTED] and [REDACTED] as witnesses in Jane Doe's trial. [REDACTED] and [REDACTED] were both friends of Jane Doe and [REDACTED] brought Jane Doe to Epstein's house for the first time.

48. Epstein does not intend to offer any evidence covered by Rule 412, Federal Rules of Evidence, regarding [REDACTED] or [REDACTED] sexual behavior or predisposition. Epstein contends that [REDACTED] and [REDACTED] should be prohibited from testifying to their alleged encounters with Epstein and therefore evidence under Rule 412 would likely be unnecessary.³

³ Epstein has filed a Motion in Limine to Exclude Evidence of Other Females and Similar Fact Evidence (DE #198).

49. However, to the extent the Court allows [REDACTED] and [REDACTED] to testify regarding their own alleged encounters with Epstein pursuant to Rules 413, 414 and 415, Federal Rules of Evidence, evidence of their sexual behavior or predisposition might become relevant depending on the scope of the permitted testimony.⁴

50. In addition, to the extent the Court allows other females to testify regarding their encounters with Epstein pursuant to Rules 413, 414 and 415, Federal Rules of Evidence, evidence of their sexual behavior or predisposition might become relevant depending on the scope of the permitted testimony.

51. While Jane Doe filed a Notice Regarding Evidence of Similar Acts of Sexual Assault (DE #197), her “summary of the substance of any testimony that is expected to be offered,” as required by Rule 415 (b), Federal Rules of Evidence, is grossly insufficient and fails to provide any “substance” of the anticipated testimony of the 15 witnesses.⁵ The summaries of each witness’s testimony are identical, save for the witnesses name and age:

[Witnesses initials] – When she was approximately [age] years old, she was brought to Epstein’s home by another underage victim. While a minor, she was at Epstein’s home on multiple occasions. Epstein engaged in **one or more of the following acts** with her while she was a minor at his house – topless or completely nude massage of Epstein; Epstein used a vibrator on her vagina; Epstein masturbated in her presence; Epstein ejaculated in her presence; Epstein touch her breast or buttock or vagina or the clothes covering her sexual organs; was made to perform sex acts on Epstein; made to perform sex acts on [REDACTED] [REDACTED] in Epstein’s presence. Epstein also demanded that she bring him other underage girls, and Epstein and his co-conspirators used the telephone to contact her to entice or induce her into going to his house for sex/prostitution.

See DE #197 at 9-15 (emphasis added).

⁴ For example, [REDACTED] testified that she kept a book of all the income she earned as a prostitute during 2007 – 2008. See Deposition of [REDACTED] at 57-63.

⁵ Some of the 15 witnesses identified by Jane Doe in DE #197 have been deposed (i.e. [REDACTED] while others have not (i.e. [REDACTED] and [REDACTED]).

52. Since Jane Doe's "one size fits all" boilerplate summaries provide only general topics, which may or may not apply depending on the witness,⁶ Epstein cannot reasonably determine what evidence under Rule 412(b)(2) would be relevant for each of the 15 witnesses listed by Jane Doe in her Notice Regarding Evidence of Similar Acts of Sexual Assault (DE #197).

53. Accordingly, Epstein requests the Court permit him to file a supplemental motion pursuant to Rule 412(c) after the Court determines whether the testimony of other females, including ■■■ and EW, regarding similar fact evidence pursuant to Rules 413, 414 and 415, Federal Rules of Evidence, is admissible and the scope of the testimony. See Fed. R. Evid. 412(c)(1)(A) (providing that the court may permit a different time to file a motion pursuant to Rule 412 or permit its filing during trial); see also Blackmon, 932 F.Supp. at 1127 (noting that admissibility of evidence under Rule 412 cannot always be determined before trial because the balancing of probative value against unfair prejudice may be affected by the course of the trial).

54. In the event, the Court allows any other female to testify regarding similar fact evidence, Epstein requests the Court require Jane Doe to provide Epstein with summaries of the substance of the actual testimony that is expected to be offered, rather than the general, all-encompassing summaries provided in her Notice Regarding Evidence of Similar Acts of Sexual Assault (DE #197). Epstein requests the Court require Jane Doe provide the following for each witness, as well as any additional information ordered by the Court: (1) the date or dates the female allegedly went to Epstein's house; (2) the number of times the female allegedly went to Epstein's house; (3) the individual that brought her to Epstein's house for the first time, if applicable; (4) the means of transportation used to go to and from Epstein's house, including the

⁶ For example, Jane Doe's summaries provide that the particular female gave a "topless or completely nude massage" and that "Epstein touched her breast or buttock or vagina or the clothes covering her sexual organs." See DE # 197 at 9-15 (emphasis added).

names of any individuals who may have drove her to and from Epstein's house or accompanied her to and from Epstein's house; (5) the specific acts alleged to have occurred between Epstein and the female each time she allegedly went to Epstein's house (if more than once), including the specific parts of her body that Epstein allegedly touched as well as the specific parts of Epstein's body she allegedly touched; (6) the names of any other individuals who may have witnessed the alleged acts; (7) the amount of money the female allegedly received each time she allegedly went to Epstein's house; (8) the names of any other females that she allegedly brought to Epstein's house, if applicable; (9) whether she was contacted by Epstein or anyone on his behalf over the phone and, if so, the dates of said telephone calls and substance of the conversations; and (10) any other information to which the female expects to testify that is not covered in (1) – (9).

WHEREFORE, Defendant, JEFFREY EPSTEIN, respectfully requests the Court admit evidence, pursuant to Rule 412(b)(2), Federal Rules of Evidence, regarding: (1) Jane Doe's sexual experiences prior to meeting Epstein; (2) her sexual experiences while she was allegedly going to Epstein's house from February 2003 – June 2005; (3) her sexual experiences after June 2005; and (4) her employment as a stripper. Epstein also requests the Court permit Epstein to file a supplemental motion pursuant to Rule 412(c)(1)(A), Federal Rules of Evidence, regarding any other females, including ■■■ and EW, after the Court determines whether similar fact evidence pursuant to Rules 413, 414 and 415, Federal Rules of Evidence, is admissible and the scope of the testimony. In the event the Court permits any other female to so testify, Epstein requests the Court require Jane Doe to provide summaries of the specific testimony that is expected to be offered, as outlined in paragraph 54 (1) – (10) herein, as well as any additional information ordered by the court, and grant any additional relief the Court deems just and proper.