

ORDER - R to Pwd

medication. It is not evident from the face of these requests, even given the allegations contained in the Complaints and the undersigned's knowledge of the facts and circumstances surrounding the action, how production of these responsive documents can in any way be seen to implicitly communicate "statements of fact." Nor is it evident from the face of these requests how production of responsive documents may "implicitly authenticate" items that are not themselves incriminating. It is therefore incumbent on Epstein to make a particularized showing, demonstrating how the act of producing responses to these requests would entail testimonial incrimination. Wujkowski, 929 F.2d at 984 (4th Cir. 1991). Epstein has failed to sustain his burden in this regard. Accordingly, Epstein's assertion of his Fifth Amendment privilege against self-incrimination in response to Requests 7 and 23 is denied, and Plaintiff's Motion as it relates to these requests is granted. Defendant has ten (10) days from the date hereof in which to produce documents responsive to these requests.

Plaintiff's Motion as it relates to requests for air travel documents (Request 10), model agency documents (Request 11), social networking site documents and photos (Request 18), witness statements (Request 19), and personal calendars or schedules (Request 21), is granted in part and denied in part. It is not evident from the face of these requests, even given the allegations contained in the Complaints and the undersigned's knowledge of the facts and circumstances surrounding the action, how production of responsive documents can in any way be seen to implicitly communicate "statements of fact." Nor is it evident from the face of the requests how production of responsive documents may "implicitly authenticate" items that are not themselves incriminating. It is therefore incumbent on Epstein to make a particularized showing, demonstrating how the

act of producing responses to these requests would entail testimonial incrimination. Wujkowski, 929 F.2d at 984 (4th Cir. 1991). Epstein has failed to sustain his burden in this regard.

Nonetheless, because the undersigned can imagine a scenario where production of documents responsive to these requests might constitute testimonial self incrimination, the Court defers ruling on the issue until such time as Epstein supplements his Response Brief by making a particularized showing, by *in camera* submission or otherwise, demonstrating how the Fifth Amendment may validly be asserted in response to these requests. Epstein shall have fifteen (days) from the date hereof in which to accomplish this task. Epstein has fifteen (15) days from the date hereof in which to produce documents responsive to any requests he elects not to address in the forthcoming supplementation.

Plaintiff's Motion as it relates to Request 5, seeking "all telephone records and other documents reflecting telephone calls made by or to Defendant", is denied as overly-broad and unduly burdensome. Plaintiff has failed to satisfactorily explain the relevance of this information to this litigation. Given the tremendous burden of producing the requested information, coupled with its tenuous connection to the issues in this case, the Court declines to compel a response to this request. See, e.g., World Triathlon Corp. v. SRS Sports Centre SDN, BHD, Case No. 8:04-cv-1594-T-24TBM, 2005 U.S. Dist. LEXIS 15412, at *2 (M.D. Fla. July 29, 2005)("the court may limit discovery upon the determination that the discovery sought is unreasonably burdensome or expensive or the expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving issues."); Priest v. Rotary, 98 F.R.D. 755, 761 (N.D. Cal.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JANE DOE NO. 2,

CASE NO.: 08-CV-80119-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Time frame - 1/1/03 -> present

For All 7, 23, 10, 11, 18, 19 + 21

**AMENDED FIRST REQUEST FOR PRODUCTION
TO DEFENDANT JEFFREY EPSTEIN**

Plaintiff, JANE DOE No. 2, by and through undersigned counsel, and pursuant to Federal Rules of Civil Procedure Rule 34, requests Defendant, JEFFREY EPSTEIN, produce all of the following items in the Defendant's care, custody, control, or possession, to Herman & Mermelstein, P.A., within thirty (30) days after the service of this Request.

Definitions and Instructions

a. The word "document" shall mean any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, and all visual depictions or images of any thing or person, including, but not limited to correspondence, memoranda, notes, messages, letters, telegrams, teletype messages, bulletins, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, receipts, computer printouts, schedules, affidavits, contracts, transcripts, surveys, graphic representations of any kind, photographs, graphs, microfilm, videotapes, tape recordings, motion pictures or other films. "Document" shall be deemed to include the original and any draft thereof, and any copy of an original or a draft which differs in any respect from such original or draft. For any items containing child pornography, provide notice of contents to Plaintiff before producing the responsive item

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b. The word "person" shall be deemed to mean any natural person or any legal entity including but not limited to the corporation, partnership, and or unincorporated association, and any officer, director, employee, agent personal representative or other person acting or purporting to act on its behalf.

c. The words "identity" or "identify", when used with reference to a natural person, call for the following information:

- i) His or her full name, profession, address, and telephone number, or, if such present information is unknown, provide the last known identifying same;
- ii) The full name and address of each of his or her employers; and
- iii) His or her present position and his or her position at the time of the act to which the Interrogatory answer relates.

d. The words "identity" or "identify", when used with reference to any entity other than a natural person, call for the full name of the entity, the type of entity (department, agency, corporation, partnership, etc.), and the address and telephone number of its principal place of business or operations, its principal business or other activity and its relationship, if any, to the parties to this litigation. If such entity no longer maintains an address, is engaged in business or other activity or bears any relationship to a party to this litigation, state his last known address, activity and/or relationship, and the date(s) thereof.

e. The words "identity" or "identify", when used with reference to a document or a communication, call for the following information:

- i. Its nature (i.e., letter, telegram, memorandum, chart, report, canceled check, etc.), date, the signatory, the recipient, and the name and address of each;
- ii The identity of each person who signed the document or of each person who participated in the making of the communication;

ii The title or heading of the document or communication, if any.

f. The words "Defendant", "you" or "your" refers to Defendant, Jeffrey Epstein, and any agent, representative, employee or person acting or purporting to act on his behalf, and any corporation, partnership or limited liability company in which Jeffrey Epstein is an officer, director, or has a controlling interest, and all subsidiaries and affiliates of such entities.

g. "Employee" shall mean any person employed to perform work for services for Defendant or by Defendant, either directly or indirectly, including without limitation:

i. a limited partnership, corporation, limited liability company, or other company or entity in which Defendant is a member, director, officer or person in control; and

ii. persons employed by a partnership or a subsidiary of a partnership in which Defendant is a general partner or person in control.

h. "Palm Beach Residence" shall mean that certain property located in Palm Beach, Florida, having an address of 358 El Brillo Way, Palm Beach Fl 33480.

i. "New York Residence" shall mean that certain property located in New York, New York having an address of 9 East 71st Street, New York, NY 10021.

j. "New Mexico Residence" shall mean that certain property located in New Mexico having an address of 49 Zorro Ranch Road, Stanley, New Mexico, 87056-9743.

k. "St. Thomas Residence" shall mean that certain property located in St. Thomas having an address of 6100 Red Hook Quarters, Suite B-3, St. Thomas, U.S.V.I., 00807.

l. The time period for the responses to these Interrogatories is January 1, 2003 to present.

m. "Florida Criminal Case" shall mean that certain case styled State of Florida v. Epstein, case no. 2006 CF 09454, Fifteenth Judicial Circuit, Palm Beach County, Florida.

n. "Federal Criminal Case" shall mean that certain grand jury proceeding and investigation identified as Grand Jury No. 07-103 (WPB), U.S. District Court, Southern District of Florida.

o. The name, "Jane Doe No. 2", shall mean the individual who is the Plaintiff in this case, whose name has been provided to Defendant.

p. The time frame of these requests is January 1, 2003 to present, unless otherwise stated.

REQUEST TO PRODUCE

1. The list provided to you by the U.S. Attorney of individuals whom the U.S. Attorney was prepared to name in an Indictment as victims of an offense by Mr. Epstein enumerated in 18. U.S.C. §2255.

2. All documents referring or relating go the United States' agreement with Defendant to defer federal prosecution subject to certain conditions, including without limitation, the operative agreement between Defendant and the United States and all amendments, revisions and supplements thereto.

3. All documents referring or relating to Defendant's agreement with the State of Florida on his plea of guilty to violations of Florida Criminal Statutes, including without limitation, the operative plea agreement and any amendments, revisions and supplements thereto.

4. All documents obtained in discovery or investigation relating to either the Florida Criminal Case or the Federal Criminal Case, including without limitation, documents obtained from any federal, state or local law enforcement agency, the State Attorneys' office and the United States Attorneys' office.

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documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, as defined by Plaintiff in paragraph g of her request, the term employee is overly broad and encompasses information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Further, the request seeks information pertaining to person who are not parties to this action and whose privacy rights are implicated.

Request No. 7. All surveillance videos, slides, film, videotape, digital recording or other audio or video depiction or image of the Palm Beach Residence.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my

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Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks information for a time period of January 1, 2003 until present regarding "all surveillance videos, etc., or image of the Palm Beach Residence."

Request No. 8. All documents referring or relating to Plaintiff Jane Doe No. 2, including without limitation, web pages, social networking site pages, correspondence, videotapes and audiotapes.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my

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Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." On its fact, the request goes beyond the scope of allowable discovery and is meant to harass, embarrass and overburden the Defendant. Further, the request is so overly broad that it includes attorney-client and work product privileged materials.

Request No. 23. All documents referring to or relating to Jeffrey Epstein's purchase or consumption of prescription medicine.

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Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Defendant's medical condition is not at issue in this action. Such a request is meant to harass and embarrass Defendant. Further, such information is privileged pursuant to Fed. Rule 501 and §90.503, Fla. Stat. In addition, such information is protected by the provisions of the Health Insurance Portability and Accountability Act (HIPAA).

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Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential.

Request No. 10. All documents referring to or relating to air travel and aircraft used by Defendant, including without limitation, flight logs and flight manifests.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks documents for a

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time period of January 1, 2003 until present regarding air travel and aircraft used by Defendant.

Request No. 11. Any and all documents referring to or relating to modeling agencies, including but not limited to documents relating to or reflecting communications with female models.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 18. Any and all documents and photographs placed by Defendant at any time in the period of these requests on a social networking website, including without limitation, Facebook.com and MySpace.com.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks documents and photographs for a time period of January 1, 2003 until present.

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Request No. 19. Any and all documents reflecting or consisting of communications between Jeffrey Epstein and MC2 Models or Jean-Luc Brunel, relating or referring to females coming into the United States from other countries to pursue a career in modeling, including, but not limited to, letters, notes and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 –

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2005." In addition, the request seeks documents pertaining to females who are not non-parties, and who possess privacy rights.

Request No. 20. Any and all documents referring or relating to gifts or loans to females under the age of 21, including, but not limited to, notes, receipts and car rental agreements.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 21. Any and all personal calendars or schedules of or for Jeffrey Epstein from January 1, 2003 to the present.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." In addition, the request encompasses attorney-client privileged material.

Request No. 22. All documents written by Jeffrey Epstein consisting of personal thoughts, feelings or descriptions of events, incidents or occurrences in Defendant's life, including without limitation, any diaries of Jeffrey Epstein.