

November 29, 2017

VIA ECF

Honorable John G. Koeltl
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Jane Doe 43. v. Epstein, et al.*
Case No.: 17-CIV-00616 (JGK)

Dear Judge Koeltl:

We represent Plaintiff Jane Doe 43 in the above-referenced matter. The Defendants Jeffrey Epstein and Lesley Groff (hereinafter referred to simply as “Epstein”) will shortly be filing a “supplemental” motion to dismiss, which will include materials from outside the complaint. These materials will be used to bolster the currently-pending motion to dismiss, which alleges (among other things) lack of personal jurisdiction over Epstein. While we believe that the motion to dismiss is meritless for reasons that we will explain in our response, we believe that the issues surrounding personal jurisdiction would be greatly simplified if plaintiff were allowed jurisdictional discovery from Epstein. In particular, Jane Doe 43 believes that if she could take a one-hour deposition (over the phone) of Epstein, the answers obtained in that deposition would immediately establish personal jurisdiction. Accordingly, we write to request such a deposition.

Epstein has alleged in his currently-pending motion to dismiss that “the Court does not have jurisdiction over the defendants.” DE 80 at 23 (capitalization altered). Epstein claims in his motion that there is a lack of sufficient past or present connection to the Southern District of New York to establish jurisdiction over him. *Id.* at 23-24. Previously Epstein’s counsel represented that Epstein has “no present connection to New York.” Letter from Michael C. Miller to Hon. John G. Koeltl at 2 (July 14, 2017).

We believe that a short deposition of Epstein would immediately establish such jurisdiction – including the fact that Epstein has a present connection to New York. For example, Jane Doe 43’s First Amended Complaint alleges that Epstein maintains a residence within the Southern District of New York (DE 45 at 2 ¶ 4) and that Epstein used this residence “to facilitate the illegal sex trafficking venture and enterprise described in this Complaint and in furtherance of the venture and enterprise.” DE 45 at 4 ¶ 12. A deposition of Epstein would, counsel believe, confirm the accuracy of these representations.

This Court “has broad discretion to permit the plaintiff to conduct jurisdictional discovery.” *Tese-Milner v. De Beers Centenary A.G.*, 613 F. Supp. 2d 404, 417 (S.D.N.Y. 2009)

(citing *Kiobel v. Royal Dutch Petroleum Co.*, 2008 WL 591869, at *9 (S.D.N.Y. Mar. 4, 2008)). Indeed, a district court has authority to allow “jurisdictional discovery” to proceed even while a motion to dismiss is pending. See, e.g., *Daventree Ltd. v. Republic of Azerbaijan*, 349 F.Supp.2d 736, 765 (S.D.N.Y. 2004).

The jurisdictional discovery that Jane Doe 43 requests is simply for a one-hour deposition of defendant Epstein. The deposition could be conducted over the telephone to minimize inconvenience to Epstein. Jane Doe 43 intends to ask Epstein, among other things, the following questions – and proffers that she has a good faith basis for believe that she will receive the following answers from Epstein:

| QUESTION | ANTICIPATED ANSWER |
|----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| Do you have a present connection with the Southern District of New York? | Either “yes” or invocation of Fifth Amendment. |
| Do you own or control corporations with locations in the Southern District of New York? | Either “yes” or invocation of Fifth Amendment. |
| Do you own apartments in the Southern District of New York? | Either “yes” or invocation of Fifth Amendment. |
| Do you currently own a residence in the Southern District of New York? | Either “yes” or invocation of Fifth Amendment. |
| Have you recently visited your residence in the Southern District of New York? | Either “yes” or invocation of Fifth Amendment. |
| Did you use your residence in the Southern District of New York to facilitate an illegal sex trafficking enterprise? | Either “yes” or invocation of Fifth Amendment. |
| How many girls and young women did you sexually trafficking in the Southern District of New York? | Either “dozens and dozens” or invocation of the Fifth Amendment. |
| Did you use your residence in the Southern District of New York to coerce Jane Doe 43 into having sex with you? | Either “yes” or invocation of Fifth Amendment. |
| Did you make threats to Jane Doe 43 to coerce her into have sex with you in your residence? | Either “yes” or invocation of Fifth Amendment. |
| Did you falsely and fraudulently promise things to Jane Doe 43 in order to obtain sex from her? | Either “yes” or invocation of Fifth Amendment. |
| Did you make false and fraudulent representations to Jane Doe 43 after January 31, 2017? | Either “yes” or invocation of Fifth Amendment. |
| Did you make any of the false and fraudulent | Either “yes” or invocation of Fifth |

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| representations in your residence in the Southern District of New York? | Amendment. |
| Please state with particularity the fraudulent representations you made to Jane Doe 43 to secure sex from her? | Either a particular description of the fraudulent representations or invocation of Fifth Amendment. |
| Do have information about how Ghislaine Maxwell is attempting to evade service of process in this case? | Either “yes” or invocation of Fifth Amendment. |

These anticipated answers are based on counsel’s current understanding of the situation. Of course, if our understanding on any of these points is inaccurate, Epstein can simply provide an affidavit – under oath – correcting our understanding.

The answers to these questions will simplify the Court’s task in ruling on Epstein’s motion to dismiss. For example, with respect to personal jurisdiction, if Epstein provides the anticipated answers, the jurisdictional issue will disappear entirely. If he invokes the Fifth Amendment, of course the net effect is the same because an adverse inference arises against Epstein. *See Baxter v. Palmigiano*, 425 U.S. 308, 316-18 (1976). The answers will also be relevant to service of process issues that may appear before the Court again in connection with Ghislaine Maxwell.

This approach will not burden Epstein. The deposition could be conducted over the telephone at a time mutually convenient to him and to all counsel. Nor will this approach delay this case. As the Court is aware, the final version of Epstein’s motion to dismiss has yet to be submitted. The deposition of Epstein could easily be conducted within two weeks, thereby avoiding any delay of the proceedings.

Counsel for Jane Doe 43 understands from earlier pleadings that defendant Epstein opposes the motion.

Accordingly, for all these reasons, the Court should allow a one-deposition of Epstein on all issues associated with jurisdiction, including all questions regarding his residence in New York City and his use of that residence for sex trafficking of Jane Doe 43 and others, as well as information about Ghislaine Maxwell evading service of process.

Sincerely,

/s/ Sigrid McCawley
Sigrid S. McCawley

SMC/

cc: All counsel of record (via ECF)