UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[redacted],

Plaintiff,

—*against*—

GHISLAINE MAXWELL,

Defendant.

15 Civ. 7433 (RWS)

MEMORANDUM OF LAW IN SUPPORT OF INTERVENORS' MOTIONS FOR LEAVE TO INTERVENE AND TO MODIFY THE PROTECTIVE ORDER

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Third-Party Proposed Intervenors Jeffrey Epstein and Lesley Groff (the "Intervenors") respectfully submit this Memorandum of Law in support of their motion to intervene in [redacted] *v. Maxwell*, No. 15 Civ. 7433, (the "[redacted] Matter"), for the limited purpose of modifying the protective order in that case (ECF No. 62) (the "Protective Order") for the reasons set forth below.

PRELIMINARY STATEMENT

Intervenors are two of the defendants in an action captioned *Jane Doe 43 v. Epstein, et al*, No. 17 Civ. 616 (JGK), currently pending before Judge John G. Koeltl (the "*Jane Doe* Matter"). Jane Doe 43 ("Plaintiff" or "Jane Doe") filed the original complaint in the *Jane Doe* Matter on January 26, 2017, and subsequently filed a First Amended Complaint ("FAC") on June 5, 2017.

Both the [redacted] and the *Jane Doe* Matters are based primarily on the alleged misconduct of Mr. Epstein. Indeed, shortly after Jane Doe filed her suit against the Intervenors in the *Jane Doe* Matter, she gave deposition testimony and produced documents as a non-party witness in the [redacted] Matter concerning her alleged interactions with the Intervenors, particularly with Mr. Epstein (the "Jane Doe Evidence"). The Jane Doe Evidence was produced to Mr. Epstein pursuant to the Protective Order in the [redacted] Matter, which limits the use of "Confidential" information to the "preparation and trial" of the [redacted] Matter (Ex. A). The [redacted] Matter was recently dismissed with prejudice pursuant to a stipulation of the parties.

Intervenors are preparing a motion to dismiss the FAC in the *Jane Doe* Matter ("Motion to Dismiss"). The Jane Doe Evidence is highly probative of the issues the Intervenors intend to raise in the Motion to Dismiss. To use the Jane Doe Evidence to support the Motion to Dismiss, however, the Intervenors need relief from the Protective Order. Judge Koeltl instructed the Intervenors to "make their application for relief from the Protective Order to the Judge in the

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case in which the Protective Order was entered," and to attempt to agree with Jane Doe on the scope of the proposed modification. Ex. B.

Intervenors have attempted, with only limited success, to reach agreement with Jane Doe on the scope of the proposed modification of the Protective Order. Specifically, the Intervenors asked Jane Doe to consent to their application to this Court for a modification of the Protective Order to permit Intervenors to use *all* of the Jane Doe Evidence to support the Motion to Dismiss. In response, Jane Doe agreed to a modification of the Protective Order with respect to some, but not all, of the Jane Doe Evidence. Specifically, Jane Doe agreed, subject to the Court's approval, to a modification of the Protective Order to permit the Intervenors to use Jane Doe's full deposition transcript from the [redacted] Matter and some of the documents she produced in that matter (the "Agreed Evidence"). Intervenors seek through the instant motion to obtain an order from the Court modifying the Protective Order to permit Intervenors to use *all* of the Jane Doe Evidence to support the Motion to Dismiss.

To modify the Protective Order, the Court must first find that Intervenors have "a claim or defense that shares with the main action a common question of law or fact" and may be permitted to intervene as required by Rule 24. Fed. R. Civ. P. 24(b)(1)(b). The Intervenors respectfully submit that they have met this standard, especially for the narrow purpose of seeking a modification of the Protective Order. There is significant factual overlap between the facts alleged by Jane Doe in both the *Jane Doe* Matter and the [redacted] Matter, and the Jane Doe Evidence is relevant to the facts alleged in both matters.

Next, the Court must evaluate whether the proposed modification of the Protective Order is proper. The Protective Order permits modifications by the Court upon a showing of good cause. The required good cause exists, particularly where, as here, Jane Doe has already agreed

to a modification of the Protective Order to permit the Intervenors to use the Agreed Evidence and Intervenors are seeking a modification of the Protective Order to permit use of the Agreed Evidence, as well as the balance of the Jane Doe Evidence. As demonstrated, below, the Jane Doe Evidence in its entirety is probative of the issues which will be raised in the Motion to Dismiss, including whether the statute of limitations has run on Jane Doe's claim, whether the Court in the *Jane Doe* Matter has personal jurisdiction over the defendants, and whether the Motion to Dismiss should be granted *with prejudice*. A draft of the Motion to Dismiss is attached for the Court's consideration as Exhibit C.

Under these circumstances, we respectfully submit that the Court should grant Intervenors application to intervene and to modify the Protective Order to permit the Intervenors to use all of the Jane Doe Evidence in connection with the Motion to Dismiss.

BACKGROUND

Jane Doe filed the original Complaint on January 26, 2017. *See* 17 Civ. 616, ECF No. 1. On May 15, 2017, and pursuant to Judge Koeltl's directive, Intervenors sent a letter to counsel for Jane Doe detailing the Complaint's many deficiencies. In response, Jane Doe filed the FAC. The FAC, however, cured nothing. Like the Complaint it replaced, the FAC: (a) fails to state a claim under 18 U.S.C. § 1595, which is the sole claim asserted; (b) asserts a claim which is barred by the statute of limitations; (c) fails to allege personal jurisdiction over Intervenors; and (d) improperly lays venue in the Southern District of New York.

The FAC alleges a brief adult relationship between Jane Doe and Mr. Epstein beginning in October 2006. Jane Doe describes herself as a dual citizen of the United Kingdom and South Africa, who attended college in Scotland, came to New York on a tourist visa in the fall of 2006, and left to return home in May 2007. Nonetheless, Jane Doe alleges that she was defrauded and

coerced into a sexual relationship with Mr. Epstein over the span of three months during her visit to New York. In particular, she alleges that while Mr. Epstein funded her extravagant New York lifestyle, including a "massive" Upper East Side apartment, he failed to fulfill his alleged promise to "have her admitted" to the Fashion Institute of Technology ("FIT"). More than ten years later, based on these events, Jane Doe filed the original Complaint (and now the FAC) in which, astonishingly, she claims that she was a victim of sex trafficking, that Intervenors violated criminal statutes prohibiting sex trafficking, and that she is entitled to recover for civil damages under 18 U.S.C. §1595.[1]

A. The Jane Doe Evidence

After filing her action against Intervenors in the *Jane Doe* Matter, Jane Doe provided third party evidence in the [redacted] Matter consisting of a deposition and a document production totaling five hundred and fifty seven (557) pages, including photographs, emails and other records relating to her alleged relationship with Mr. Epstein (the "Jane Doe Evidence"). Mr. Epstein was given a copy of the Jane Doe Evidence pursuant to the terms of the Protective Order. The Protective Order provides, in pertinent part, as follows:

[1] The statute of limitations applicable to 18 U.S.C. §1595 was four years at the time of the events described in the FAC. In December 2008, more than a year after the events in question ended, the statute was amended to provide for a ten year statute of limitation. Jane Doe's claim is time-barred because she filed her action on January 26, 2017, more than four years after the occurrence of all of the relevant conduct that she alleges relating to her association with Mr. Epstein. *Abarca v. Little*, 54 F. Supp. 3d 1064, 1068 (D. Minn. 2014); but see *Oluch v. Orina*, 101 F. Supp. 3d 325, 330 (S.D.N.Y. 2015) (applying a ten year statute of limitations). Even if the ten year statute of limitations were to apply, Jane Doe's claim would still be time-barred because all of the relevant conduct she alleges relating to her association with Mr. Epstein occurred prior to her departure from New York in January 2007, when she traveled to the United Kingdom and South Africa to visit her family, more than ten years before Jane Doe filed the *Jane Doe* Matter.

- That discovery in the [redacted] Matter may be designated "Confidential" if it is "confidential and implicates common law and statutory privacy interests" of the parties to the [redacted] Matter (Ex. A, ¶ 3);

- "Confidential" information may only be used for the "preparation and trial" of the [redacted] Matter (Ex. A, ¶ 4);

- The Protective Order will expire at the end of the [redacted] Matter at which time the parties will return or destroy Confidential information (Ex. A, ¶ 12);

- There is no limit on the use of Confidential information at a trial of the [redacted] Matter (Ex. A, ¶ 13); and

- The Court may modify the order "at any time for good cause shown following notice to all parties and an opportunity for them to be heard." (Ex. A, ¶ 14).

The Jane Doe Evidence, which was all designated "Confidential" under the terms of the Protective Order, is directly relevant to Intervenors' anticipated Motion to Dismiss the FAC for at least three reasons. First, the Jane Doe Evidence demonstrates that Jane Doe's claim in the FAC is barred by the longest possible statute of limitations period - all of the material conduct between Jane Doe and the Intervenors alleged in the FAC occurred more than ten years before Jane Doe commenced the *Jane Doe* Matter. Second, the Jane Doe Evidence makes clear that the Court in the *Jane Doe* Matter lacks personal jurisdiction over the Intervenors because all of their allegedly tortious conduct in New York occurred more than ten years before Jane Doe commenced the *Jane Doe* Matter. Lastly, the Jane Doe Evidence demonstrates that the Motion to Dismiss should be granted *with prejudice* because Jane Doe cannot draft a legally sufficient complaint. The impact that the Jane Doe Evidence has on these three issues is evident from a review of the attached draft Motion to Dismiss (*See* Ex. C).

B. The Agreed Evidence

On July 14, 2017, the Intervenors wrote to Judge Koeltl under seal to raise the issue of the Jane Doe Evidence, and to seek permission to file a motion requesting relief from the

Protective Order. On July 17, 2017, Jane Doe submitted a letter objecting to Intervenors' request. On July 17, 2017, Judge Koeltl issued an Order under seal directing Intervenors to make their application to Your Honor. Judge Koeltl further directed Intervenors to first "attempt to obtain agreement from the other parties" in the [redacted] Matter before an application was made before Your Honor. Ex. B.

Intervenors thereafter sought the agreement of Jane Doe's counsel to modify the Protective Order to permit the use of the Jane Doe Evidence in support of the Motion to Dismiss. To date, Jane Doe has agreed that the Protective Order should be modified to permit the Intervenors to use her deposition and a portion of her document production in the [redacted] Matter, specifically the documents bearing Bates-stamp numbers [redacted]15, 157-168, 175-203 ("Agreed Evidence").

All of the Agreed Evidence is relevant to the Motion to Dismiss. For example, Jane Doe provided deposition testimony demonstrating that she was not a victim of sex trafficking. She admitted that, in the fall of 2006, when she arrived in the United States on a tourist visa, she was an adult with a college education obtained in Scotland. Dep. 95, 99-100. She had never met any of the Intervenors before she arrived – they were complete strangers to her. Dep. 109-110. She could (and did) travel at will before, during and after her relationship with the Intervenors, holding dual citizenship in, and passports from, the United Kingdom and South Africa. Dep. 48-52, 95-96; Ransome_000157-68. Jane Doe also admitted that Mr. Epstein provided her with a comfortable lifestyle, including a "massive" apartment on the Upper East Side of Manhattan and unlimited access to a car service whenever she needed it. Dep. 70-71. She also admitted, contrary to her allegations in the FAC, that Mr. Epstein actually helped her with her application for admission to FIT, including reviewing her essay and application. Dep. 166-67, 175.

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However, she cannot provide any evidence that she actually submitted her application to FIT. Dep. 175. This testimony clearly demonstrates that Jane Doe was not a victim of sex trafficking and that the Motion to Dismiss should be granted with prejudice because Jane Doe does not have a colorable claim.

Jane Doe's testimony also demonstrates that her claim in the *Jane Doe* Matter is barred by the statute of limitations and that the Court in the Jane Doe Matter lacks personal jurisdiction over the Intervenors. Jane Doe testified that before she left the United States in January 2007 – more than ten years before Jane Doe filed this action – she traveled to visit her family in the United Kingdom and South Africa having determined that Mr. Epstein could not be trusted. Dep. 223-25, 406-07. By then, Jane Doe had begun a relationship with a Manhattan-based banker. *Id.* While she was in the United Kingdom and South Africa with her family, she made plans to return to Manhattan and live with her new boyfriend – and not with Mr. Epstein. *Id.* Jane Doe's testimony confirms that all relevant conduct occurred more than ten years before she commenced the Jane Doe Matter. As a result, Jane Doe's claim is barred by the statute of limitations and the Court lacks personal jurisdiction over the Intervenors, who, as admitted in the FAC, have no present connection to New York.

The documents included in the Agreed Evidence make the same point. For example, these documents evidence that Jane Doe travelled abroad freely during her alleged relationship with Mr. Epstein, that Mr. Epstein did, in fact, help Jane Doe with her application to FIT, and that she was already "quite serious" with her new boyfriend before leaving for the United Kingdom and South Africa in January 2007 – all more than ten years before Jane Doe commenced the Jane Doe Matter. [redacted], 157-68, 175-203. These documents are clearly relevant to the Intervenors' anticipated Motion to Dismiss.

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C. **The Disputed Documents**

While Jane Does has appropriately agreed to a modification of the Protective Order to permit Intervenors to use the Agreed Evidence in support of the Motion to Dismiss, she has refused to consent to a modification of the Protective Order to permit the Intervenors to use the rest of the Jane Doe Evidence (the "Disputed Documents"). There is no way to differentiate between the Agreed Evidence and the Disputed Documents in terms of their relevance to the Motion to Dismiss. Tellingly, Jane Doe has not even tried to offer an explanation for her arbitrary decision to consent to Intervenors use of some, but not all, of the Jane Doe Evidence.

The Disputed Documents, like the Agreed Evidence, demonstrate that Jane Doe's claim was not filed within the longest possible applicable statute of limitations, that the Court in the Jane Doe Matter lacks personal jurisdiction over the Intervenors, and that Jane Doe cannot draft a legally sufficient complaint. For example, the Disputed Documents reflect that:

- Jane Doe's alleged brief relationship with Mr. Epstein ended more than ten years before she commenced the Jane Doe Matter ([redacted]_000204-235, 425-26);
- Jane Doe determined more than ten years before she filed the Jane Doe Matter that she no longer trusted Mr. Epstein ([redacted]_000425-26);
- Jane Doe returned to New York in February 2007 to live with her new banker boyfriend, and not with Mr. Epstein [redacted]_000425-26);
- Jane Doe freely entered and exited relationships with older, wealthy men, including a relationship with a Scottish video game mogul that she participated in before (and during) her alleged short relationship with Mr. Epstein ([redacted]_000430-32);
- Jane Doe's alleged reasonable reliance on the Intervenors, who were complete strangers to her, that she would be guaranteed admission to FIT and attend it for free if she had sex with Mr. Epstein, is implausible [redacted]_000425-26, 430-32); and
- Jane Doe repeatedly sought publicity about her alleged relationship with Mr. Epstein from a tabloid newspaper, weaving outlandish tales of celebrities having sexual intercourse in Mr. Epstein's residence and that Mr. Epstein worked for the CIA and

> FBI to sexually compromise the world's political leaders, all of which further demonstrate the implausibility of her claim ([redacted]_000428-557).

In short, *all* of the Jane Doe Evidence is relevant to the Motion to Dismiss. All of the Jane Doe Evidence bears directly on whether the FAC is barred by the statute of limitations, whether the Court in the *Jane Doe* Matter lacks personal jurisdiction over the Intervenors and whether the Motion to Dismiss should be granted without further opportunity to replead. Mr. Epstein already properly possesses the Jane Doe Evidence; he simply seeks through this application permission to use this evidence in support of the Motion to Dismiss without violating the Protective Order.

ARGUMENT

The Intervenors respectfully request that Paragraph 4 of the Protective Order be modified to relieve the Intervenors of the restriction on the use of Confidential information so that the Intervenors may use the Jane Doe Evidence in support of the Motion to Dismiss. As noted above, Jane Doe already consents to a part of this requested relief, *i.e.*, that the Agreed Evidence should be carved out of the Protective Order. For the reasons set forth above and below, there is no rational basis to distinguish between the Agreed Evidence and the Disputed Documents, and it would be appropriate for this Court to modify the Protective Order to permit the Intervenors to use all of the Jane Doe Evidence.

A. Permissive Intervention is Proper under Fed. R. Civ. P. 24(b)

At the outset, Intervenors should be permitted to intervene in the [redacted] Matter for the very limited purpose of modifying the Protective Order with respect to the Jane Doe Evidence. Under Rule 24(b), the Court may allow anyone to intervene in an action who has "a claim or

defense that shares with the main action a common question of law or fact" if the intervention would not unduly delay or prejudice the existing parties. Fed. R. Civ. P. 24(b).

The Rule 24(b) standard has been met here, particularly since the Jane Doe Evidence relates directly to the facts alleged by Jane Doe in both the *Jane Doe* and the [redacted] Matters. In both cases, Jane Doe described her purported relationship with the Intervenors. In both cases, Jane Doe alleges that the Intervenors subjected her to sex trafficking. However baseless these allegations (and they are baseless), clearly there is significant factual overlap between the two proceedings. Moreover, since the [redacted] Matter has been dismissed, this application for a modification of the Protective Order will have no impact on the efficient management of the [redacted] Matter. Moreover, Jane Doe, who is the source of the Jane Doe Evidence, does not object to Intervenors' application to intervene in the [redacted] Matter for the limited purpose of modifying the Protective Order. Finally, this Court has already allowed third parties to intervene in the [redacted] Matter to challenge the Protective Order. [redacted] *v. Maxwell*, No. 15 Civ. 7433, 2017 WL 1787934, at *1 (S.D.N.Y. May 3, 2017).[2] As such, Intervenors respectfully submit that they have met the Rule 24 standard for obtaining permission to intervene in the [redacted] Matter to seek modification of the Protective Order. This is particularly so since Jane Doe was the one who filed the *Jane Doe* Matter and who subsequently gave the Jane Doe Evidence which relates directly to the *Jane Doe* Matter.

[2] The Court may also modify the Protective Order even though a stipulation of dismissal has been filed in the [redacted] Matter. *Gambale v. Deutsche Bank AG*, 377 F.3d 133, 143 (2d Cir. 2004) (noting that a district court can modify a protective order at a third party's request even after the parties have filed a stipulation of dismissal pursuant to settlement).

B. This Court Should Modify the Protective Order

1. The Court Has Broad Discretion to Modify the Protective Order

This Court has broad power to modify existing protective orders. *S.E.C. v. TheStreet.com*, 273 F.3d 222, 231 (2d Cir. 2001). Before modifying a protective order, the Court must first determine if the parties to the original order "reasonably relied" on the order. This is determined by looking to four factors: (1) the scope of the protective order; (2) the language of the order itself; (3) the level of inquiry the court undertook before granting the order and whether good cause was shown to designate documents as confidential; and (4) the nature of reliance on the order." *Int'l Equity Investments, Inc. v. Opportunity Equity Partners Ltd.*, No. 2010 WL 779314, at *4 (S.D.N.Y. Mar. 2, 2010).

Courts in this District have applied these factors to allow third parties to modify protective orders. In *Charter Oak Fire Ins. Co. v. Electrolux Home Prods., Inc.*, 287 F.R.D. 130, 134 (E.D.N.Y. 2012), the court modified a protective order in one case to allow documents and testimony in that case to be used in another civil proceeding where the two cases shared the same operative facts. Applying the *International Equity* factors, the court found that it was unreasonable for the parties to believe that the order in their case would never be modified. *Id.* at 132-33 ("Where a protective order contains express language that limits the time period for enforcement, anticipates potential modification, or contains specific procedures for disclosing confidential materials to non-parties, it is not reasonable for a party to rely on an assumption that it will never be modified."). The court in *Gambale* came to a similar conclusion—holding that parties cannot rely on protective orders that are on their face temporary. *See Gambale*, 377 F.3d at 142 n.7. Moreover, when Jane Doe produced the Jane Doe Evidence, she could not possibly have believed that she would not be required to produce that very evidence in the *Jane Doe*

Matter, regardless of her designation of confidentiality. The Jane Doe Evidence concerns the same allegations made by Jane Doe against the defendants in the *Jane Doe* Matter.

Here, each of the four reasonable reliance factors from *International Equity* weighs in favor of modifying the Protective Order. First, the Protective Order is broadly drafted and the Court has great latitude to amend a protective order with such a broad scope. *In re EPDM Antitrust Litig.*, 255 F.R.D. 308, 319 (D. Conn. 2009) (a blanket protective order is "more likely to be subject to modification than a more specific, targeted order because it is more difficult to show a party reasonably relied on a blanket order in producing documents or submitting to a deposition.").

Second, the Protective Order allows parties to designate materials as "Confidential" without first demonstrating why there is good cause to do so, which renders the Protective Order susceptible to modification. *Charter Oak*, 287 F.R.D. at 133 (citing cases); *Int'l Equity*, 2010 WL 779314, at *7 (parties' reliance on the protective order "diminished" in part where "the Parties had broad unilateral control to designate almost any material confidential without court inquiry").

Third, the language of the Protective Order offers no assurances that the Confidentiality designation will remain in place. Indeed, the Protective Order provides for only partial protection of confidentiality; it provides for confidentiality protection only during the pre-trial stage, but does not provide for any such protection during a trial of the [redacted] Matter. (Ex. A, ¶ 13). And, at the close of the [redacted] Matter, the Protective Order contemplates that its protections will terminate with the return and/or destruction of Confidential discovery. (Ex. A, ¶ 12). Moreover, the Protective Order gives the Court unfettered authority to modify the Protective Order upon a showing of good cause. (Ex. A, ¶ 14). As a result, no party to this

Protective Order could read this Protective Order and perceive that there is any assurance that a confidentiality designation will not be modified. Jane Doe could least of all rely on the Protective Order merely because she made a Confidential designation when she produced evidence about the same allegations she made against the defendants in the *Jane Doe* Matter that she, herself, initiated prior to her appearance and production of that evidence in the [redacted] Matter.

Fourth, Jane Doe does not object to a modification of the Protective Order; she only takes issue with the scope of the proposed modification. Indeed, Jane Doe does not dispute that the Jane Doe Evidence is directly relevant to the *Jane Doe* Matter. Having conceded the relevance of the Jane Doe Evidence to the *Jane Doe* Matter, Jane Doe should not be permitted to limit Intervenors' legal arguments by dictating which of the Jane Doe Evidence Intervenors should be allowed to include in their pleadings in that matter.

Finally, Mr. Epstein already possesses the Jane Doe Evidence, which is a fact that weighs in favor of this Court granting the Intervenors' motion to modify the Protective Order. In *In re Visa Check/MasterMoney Antitrust Litig.*, 190 F.R.D. 309 (E.D.N.Y. 2000), the court granted a similar motion where the intervenor already had possession of the documents in question and sought permission to use them in another action. *Id.* at 313-314. Notably, the court was satisfied that the other provisions of the protective order would adequately protect the confidentiality of the documents. The same is true here—Intervenors have no intention of using the Jane Doe Evidence for anything other than the preparation and trial of the *Jane Doe* Matter. The Intervenors are fully prepared to enter into a protective order in the *Jane Doe* Matter setting appropriate limits on their use of the Jane Doe Evidence in that proceeding.

2. Modifying the Protective Order Would Promote Judicial Economy

Modifying Paragraph 4 of the Protective Order to allow Intervenors to use the Jane Doe Evidence in the *Jane Doe* Matter will promote judicial economy on a number of levels. First, Jane Doe, the source of the Jane Doe Evidence, does not object to a modification of the Protective Order. She was the one who voluntarily agreed to produce the Jane Doe Evidence and placed the same evidence at issue in both the [redacted] and *Jane Doe* Matters. The only point of disagreement between Jane Doe and the Intervenors is whether the Protective Order should be modified to permit the use of just the Agreed Evidence or should also permit use of the Disputed Documents, *i.e.*, the entirety of the Jane Doe Evidence. Moreover, Jane Doe does not dispute that the Jane Doe Evidence is relevant in the *Jane Doe* Matter. Simply put, the only reason for her refusal to consent is that Jane Doe does not want Judge Koeltl to have the full Jane Doe Evidence in deciding the Motions to Dismiss. We respectfully submit that this is not what the Protective Order is intended to do.

Second, the Jane Doe Evidence is directly relevant to the allegations in the *Jane Doe* Matter. This evidence consistently demonstrates that the statutes of limitations have expired on Jane Doe's claim in the FAC, that the Court in the *Jane Doe* Matter lacks personal jurisdiction over the Intervenors, and that Jane Doe cannot draft a legally sufficient complaint in the *Jane Doe* Matter. It would promote judicial economy to have all of this evidence considered in the context of the Motions to Dismiss.

Third, since Jane Doe eventually will be required to reproduce the Jane Doe Evidence in the *Jane Doe* Matter the interests of judicial economy dictate that Intervenors be permitted to use that evidence now. This is particularly true since Mr. Epstein already possesses the Jane Doe Evidence; Jane Doe will be required to do nothing further to effect the terms of a modified

Protective Order.[3] Allowing this small number of already-produced documents to be used by Intervenors in the *Jane Doe* Matter is the most efficient and least burdensome method for resolving this dispute. Granting Intervenors' motion does not require Jane Doe to do anything, and indeed saves her from responding to any pre-motion discovery requests for the documents she has already produced.

CONCLUSION

For the foregoing reasons, third-party proposed Intervenors respectfully request that the Court:

1. Grant the Intervenors' motion to intervene;

2. Modify the Protective Order in this action to allow Intervenors to use all of the Jane Doe Evidence to support their Motion to Dismiss the FAC in the *Jane Doe* Matter; and

3. Any other relief the Court deems just and proper.

Dated: New York, New York
October 5, 2017

Respectfully submitted,

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[3] Further, Mr. Epstein does not seek any further materials in either Matter at this time. Mr. Epstein merely seeks to use the documents already provided to him without violating the terms of the Protective Order.