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entitled to evidence which would show the nature of her relationship with males, whether she has suffered or engaged in other acts of sexual misconduct or activity as alleged in her complaint, and whether she suffered injury and damages as a result of the other claimed sexual misconduct or activity. See United States v. Bear Stops, 997 F.2d 451 (8<sup>th</sup> Cir. 1993)(Defendant charged with sexual abuse of six year old boy was entitled to admission of evidence relating to victim's sexual assault by 3 older boys to establish alternative explanation for why victim exhibited behavioral manifestations of sexually abused child.).

In further support of Defendant's motion, a copy of Balas v. Ruzzo, 703 So.2d 1076 (Fla. 5<sup>th</sup> DCA 1997), rev. denied, 719 So.2d 286 (Fla. 1998), is attached hereto as **Exhibit B** as it is on point to the discovery issues in this action, and the relevancy and discoverability of Plaintiff's history of sexual activity and any payment, therefore. See interrogatories 8, 22 and 30 propounded in the Balas case and footnote 1 herein.<sup>3</sup> Additionally and significantly, in other pending state court civil actions against Defendant EPSTEIN attempting to assert similar claims and damages, the Circuit Court Judges have already ruled that such information is discoverable as it is relevant to the damages claims of Plaintiff. See **Composite Exhibits C and D** hereto. **Composite Exhibit C** are the Orders, dated February 23, 2009, entered in the case of A.C. v. Epstein, and [REDACTED] Case No. 502008CA025129 MB Al, 15<sup>th</sup> Judicial Circuit, In and For Palm Beach County, State of Florida, which granted Defendant's motion to compel therein directed

<sup>3</sup> In Balas v. Ruzzo, supra, the Plaintiffs alleged a multicount complaint including claims for "coercion of prostitution" pursuant to §796.09, Fla. Stat.; for battery for the unwanted and offensive touching of petitioners' bodies; false imprisonment for physically confining the petitioners against their will; invasion of privacy; and intentional infliction of emotional distress.

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to discovery identical to interrogatory no. 18 above. (In the A.C. case, the Plaintiff

answered without objection Interrogatories identical to nos. 19, 20, and 21 herein.)

**Composite Exhibit D** is a portion the transcript from a March 3, 2009 hearing on Defendant's motion to compel discovery in the case of Jane Doe II v. Epstein, and Case No. 502008CA020614 MB AF, 15<sup>th</sup> Judicial Circuit Court, In and For Palm Beach County, State of Florida. Again, the Circuit Court Judge determined that the information sought is relevant to the issue of damages and, thus, discoverable.

Accordingly, Plaintiff's objections are required to be overruled and Defendant is entitled to the discovery sought.

**Interrogatory No. 23**

23. State the names, addresses, ages, phone numbers and dates of all females whom you claim were brought by you to Mr. Epstein's home to give him a massage or for any other reason. As to each female, state the amount of money you claim you were paid to bring each female.

**Answer:**

A.L. Age: 22  
West Palm Beach, FL  
I was paid \$100.00

**Legal Argument Supporting Entitlement to Discovery**

Counsel for the respective parties also discussed this interrogatory in an effort to come to a resolution. Plaintiff does not object to the discovery requested. Plaintiff's counsel indicated that he had a "problem" disclosing the identity of A.L. to the extent she was a minor at the time. Defendant would agree to an order protecting public disclosure of the true identity of A.L. if she were indeed a minor at the time; however, as part of the order, Plaintiff should also be required to provide Defendant with the full

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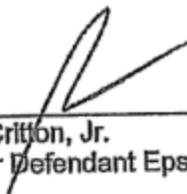
name of A.L. so that Defendant may conduct meaningful discovery. It is Plaintiff who claims she brought A.L. to Epstein's home as part of the alleged "scheme." In addition, Plaintiff failed to provide any date or dates as to when she brought A.L. to Epstein's home. Plaintiff's counsel indicated they would attempt to provide this information.

Accordingly, in granting Defendant's motion to compel discovery, with respect to this interrogatory, Plaintiff should be required to provide the full name of A.L. (which Defendant agrees to keep confidential at this time), the date or dates which she brought A.L. or any female to Epstein's home, and how much she was allegedly paid each time.

WHEREFORE, Defendant requests that this Court grant Defendant's motion to compel and award Defendant's reasonable expenses, including attorney's fees, associated with this motion.

**Rule 7.1 Certification**

I hereby certify that counsel for the respective parties communicated by telephone in a good faith effort to resolve the discovery issues prior to the filing of this motion to compel. Some of the issues were resolved or in the process of being resolved.

  
\_\_\_\_\_  
Robert D. Critton, Jr.  
Attorney for Defendant Epstein

**Certificate of Service**

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the following Service List in the manner specified by CM/ECF on this 2nd day of April, 2009

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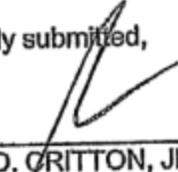
Richard Horace Willits, Esq.  
Richard H. Willits, P.A.  
2290 10<sup>th</sup> Avenue North  
Suite 404  
Lake Worth, FL 33461  
[REDACTED]  
Fax: [REDACTED]  
Counsel for Plaintiff C.M.A.  
[reelrhw@hotmail.com](mailto:reelrhw@hotmail.com)

Jack Scarola, Esq.  
Jack P. Hill, Esq.  
Searcy Denney Scarola Barnhart &  
Shibley, P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409  
[REDACTED]  
Fax: [REDACTED]  
[jsx@searcylaw.com](mailto:jsx@searcylaw.com)  
[jph@searcylaw.com](mailto:jph@searcylaw.com)  
Co-Counsel for Plaintiff

Jack Alan Goldberger, Esq.  
Atterbury Goldberger & Welas, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, FL 33401-5012  
[REDACTED]  
Fax: [REDACTED]  
[jagesq@bellsouth.net](mailto:jagesq@bellsouth.net)  
Counsel for Defendant Jeffrey Epstein

Bruce Reinhart, Esq.  
Bruce E. Reinhart, P.A.  
250 S. Australian Avenue  
Suite 1400  
West Palm Beach, FL 33401  
[REDACTED]  
Fax: [REDACTED]  
[ecf@brucerinhartlaw.com](mailto:ecf@brucerinhartlaw.com)  
Counsel for Defendant [REDACTED]

Respectfully submitted,

By:   
ROBERT D. CRITTON, JR., ESQ.  
Florida Bar No. 224162  
[rcrit@bclclaw.com](mailto:rcrit@bclclaw.com)  
MICHAEL J. PIKE, ESQ.  
Florida Bar #617296  
[mpike@bclclaw.com](mailto:mpike@bclclaw.com)  
BURMAN, CRITTON, LUTTIER & COLEMAN  
515 N. Flagler Drive, Suite 400  
West Palm Beach, FL 33401  
[REDACTED] Phone  
[REDACTED] Fax  
(Counsel for Defendant Jeffrey Epstein)

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**School behavioral problems, received counseling prior to the incident.**

8. Did you consume any alcoholic beverages or take any drugs or medications within 12 hours before the time of each incident(s) described in the complaint? If so, state the type and amount of alcoholic beverages, drugs, or medication which were consumed, and when (dates) and where you consumed them.

**ANSWER**

1. On one occasion I had taken "Morning Glory" and "Angel Trumpets". I do not recall the date.
2. On another occasion I used cocaine powder. I do not recall the date.

9. Describe each injury (physical, emotional, mental) for which you are claiming damages in this case, specifying the part of your body that was injured; the nature of the injury and as to any injuries you contend are permanent, the effects on you that you claim are permanent.

**ANSWER**

I have bi-polar disorder and manic depression. I lost my self-esteem. I began cutting myself on my arms and legs and developed drug problems. Permanent injuries are psychological.

10. Please state each item of damage that you claim, and include in your answer: the count to which the item of damages relates; the factual basis for each item of damages; and an explanation of how you computed each item of damages, including any mathematical formula used.

**ANSWER**

I am claiming compensation for mental anguish, mental pain, psychic trauma, and loss of enjoyment of life. These damages will be evaluated by a jury who will provide their own methods of computation in an amount of at least the statutory minimum established by 18 U.S.C.A. § 2255.

Discovery is ongoing.

11. List the names and business addresses of each physician (including psychiatrist, psychologist, chiropractor or medical provider) who has treated or examined you,

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Plaintiff's Answers to Defendant's First Interrogatories

and each medical facility where you have received any treatment or examination for the injuries for which you seek damages in this case; and state as to each the date of treatment or examination and the injury or condition for which you were examined or treated.

**ANSWER**

**Dr. Serge Thys (Psychiatrist) Date: I do not recall the date. I would defer to the Doctor's records.**  
2151 45<sup>th</sup> Street  
West Palm Beach, FL 33407

**██████ Pope (Counselor/Therapist) Date: Since high school. Ongoing.**  
Parent Child Center  
2001 W. Blue Heron Boulevard

12. List the names and business addresses of all other physicians, medical facilities, rehab facilities (drug, alcohol or psychiatric) or other health care providers including psychiatrist, psychologist, mental health counselor and chiropractors by whom or at which you have been examined or treated in the past 10 years; and state as to each the dates of examination or treatment and the condition or injury for which you were examined or treated.

**ANSWER**

**Good Samaritan Hospital (3/12/04, 3/25/08)**  
Child Birth  
1309 N Flagler Dr  
West Palm Beach, FL 33401

**St. Mary's Hospital (4/07)**  
DNC  
901 45<sup>th</sup> Street  
West Palm Beach, FL 33407

**Gloria C. Hakkarainen, MD**  
Ob/Gyn  
2925 10<sup>th</sup> Avenue North, Suite 305  
Palm Springs, FL 33461

**Theodore Ritota, DDS**  
Dentist

Westlaw

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District Court of Appeal of Florida,  
Fifth District.  
Kimberly BALAS and Teresa Shumate, Petitioners,  
v.  
Marjorie A. RUZZO, and Exec., Inc., etc., Re-  
spondents.  
No. 97-82.

Oct. 10, 1997.

As Modified on Grant of Clarification Jan. 2, 1998.  
*rev. denied, 719 So.2d 286 (Fla. 1998)*  
Plaintiffs brought action against alleged house of prostitution for, inter alia, coercion of prostitution. The Circuit Court, Brevard County, Frank Pound, J., granted in part defendants' motion to compel discovery. Plaintiffs filed petition for writ of certiorari. The District Court of Appeal, W. Sharp, J., held that evidence of plaintiffs' past prostitution and their revenues relating to such activities was discoverable.

Petition denied.

Harris, J., concurred specially and filed opinion.

West Headnotes

[1] Pretrial Procedure 307A  $\leftrightarrow$  31

307A Pretrial Procedure  
307AII Depositions and Discovery  
307AII(A) Discovery in General  
307Ak31 k. Relevancy and Materiality.  
Most Cited Cases  
Discovery in civil cases must be relevant to subject matter of case and must be admissible or reasonably calculated to lead to admissible evidence. West's F.S.A. RCP Rule 1.280(b)(1).

[2] Pretrial Procedure 307A  $\leftrightarrow$  31

307A Pretrial Procedure  
307AII Depositions and Discovery  
307AII(A) Discovery in General

307Ak31 k. Relevancy and Materiality.  
Most Cited Cases  
Party may be permitted to discover evidence that would be inadmissible at trial, if it would lead to discovery of relevant evidence. West's F.S.A. RCP Rule 1.280(b)(1).

[3] Pretrial Procedure 307A  $\leftrightarrow$  36.1

307A Pretrial Procedure  
307AII Depositions and Discovery  
307AII(A) Discovery in General  
307Ak36 Particular Subjects of Disclosure  
307Ak36.1 k. In General. Most Cited Cases

Evidence of plaintiffs' past prostitution and their revenues relating to such activities, including activities with alleged house of prostitution against which they had filed suit, was discoverable, where plaintiffs brought action not only for coercion of prostitution, but also for battery, false imprisonment, invasion of privacy, intentional infliction of emotional distress, violation of their civil rights, and racketeering. Violent Crime Control and Law Enforcement Act of 1994, § 40302, 42 U.S.C.A. § 13981; West's F.S.A. §§ 772.014, 796.09; West's F.S.A. RCP Rule 1.280(b)(1).  
\*1076 Richard E. Johnson and Heather Fisher Lindsay, of Spriggs & Johnson, Tallahassee, for Petitioners.

Mark S. Peters of Amari, Theriac & Eisenmenger, P.A., Cocoa, for Respondents.

W. SHARP, Judge.

Balas and Shumate petition this court for a writ of certiorari to review certain portions of the lower court's order which granted, in part, a motion to compel discovery filed by respondents Ruzzo and Exec., Inc. Petitioners argue that those portions depart from the essential requirements of law and will cause them irreparable harm because they will be

EXHIBIT *B*

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compelled to disclose intimate details of their sexual history. We decline to issue the writ of certiorari.

Balas and Shumate filed suit against Ruzzo and Exec, Inc., doing business as "The Boardroom." According to Balas and Shumate, The Boardroom operates ostensibly as \*1077 a leisure spa but actually is a house of prostitution. Balas worked at The Boardroom from December 1993 until February 1996; Shumate worked there from October 1992 until March 1996. Ruzzo, the sole officer and shareholder of Exec, Inc., collected about fifty to sixty percent of each employees' earnings from performing sexual acts.

According to Balas and Shumate, Ruzzo exerted mental and emotional control over her employees and thus she was able to exploit them as prostitutes. Ruzzo required her employees to pay her substantial sums of money to attend "metaphysical workshops" conducted by Ruzzo or persons associated with her. At the work place, the employees were required to participate in religious and quasi-religious "circles," rituals and incantations. These practices were allegedly designed to break down the personalities of the women who worked for Ruzzo and to foster dependency and loyalty to herself. At one time when the earnings of a new employee were missing and believed to be stolen, Ruzzo required that the petitioners be strip searched and body cavity searched. Ruzzo caused the petitioners to believe their continued employment was dependent on their submission to these searches and that they might be arrested on felony charges if they refused to submit to the searches.

Balas and Shumate's second amended complaint against Ruzzo contains seven counts. Count I is an action for coercion of prostitution pursuant to section 796.09, Florida Statutes. Petitioners allege the requirement that they perform sexual acts to retain their employment constitutes inducement and coercion to engage in prostitution. Count II is a claim for battery for the unwanted and offensive touching of the petitioners' bodies. Count III is a claim for false imprisonment for physically confining the pe-

tioners against their will. Count IV alleges that respondents' actions constituted an invasion of petitioners' privacy. Count V is a claim for the intentional infliction of emotional distress. Count VI alleges a civil rights action that respondents have violated petitioners' right to be free from crimes of violence motivated by gender within the meaning of 42 U.S.C. section 13981. Finally, count VII seeks civil remedies for criminal practices or racketeering pursuant to section 772.104, Florida Statutes. The petitioners claim that they suffered emotional pain, anguish, humiliation, insult, indignity, loss of self-esteem, inconvenience, hurt and emotional distress. They seek an award of general and punitive damages, among other relief.

The discovery to which the petitioners are being required to respond is as follows:

I.

Interrogatory 8: Please advise how long have you been engaged in prostitution....

II.

Interrogatory 22: State with specificity the manner in which the acts as described in your Complaint have materially affected how you interact with your husband, boyfriend, fiancée' [sic] or any other individual of the opposite sex.

III.

Request for Production 30: A copy of any photographs, movies or videotapes in which you performed sexual acts and/or simulated sexual acts in exchange for money or other consideration.

IV.

Interrogatory 16: Please list the names, addresses, telephone numbers and rates of pay for all employers for which you worked, including the

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nature of the work, during the five years immediately preceding the date of employment with the Boardroom and from the date of your termination with the Boardroom to the present, providing the names of your immediate supervisors at each place of employment and the reason for your leaving each place of employment.

V.

**Interrogatory 26:** Please state your total income while employed at the Boardroom, and state the source of that income including any income from other employment or \*1078 income earned from prostitution other than at the Boardroom.

VI.

**Request for Production 34:** Business records from any selfemployment or owned business ventures in the last 5 years, including any records or list of customers, "special customer lists" or "sugar daddy's list."

[1][2] Discovery in civil cases must be relevant to the subject matter of the case and must be admissible or reasonably calculated to lead to admissible evidence. See *Allstate Insurance Co. v. Langston*, 655 So.2d 91 (Fla.1995); *Amente v. Newman*, 653 So.2d 1030 (Fla.1995); *Russell v. Stardust Cruisers, Inc.*, 690 So.2d 743 (Fla. 5th DCA 1997). The concept of relevancy is broader in the discovery context than in the trial context and a party may be permitted to discover evidence that would be inadmissible at trial, if it would lead to the discovery of relevant evidence. *Allstate; Amente*. Florida Rule of Civil Procedure 1.280(b)(1) delineates the proper scope of discovery:

*In General.* Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description,

nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Nonetheless, the discovery of certain kinds of information may cause material injury of an irreparable nature. This includes the "cat-out-of-the-bag" material that could be used to injure another person or party outside the context of the litigation, material protected by privilege, trade secrets or work product. Discovery was never intended to be used as a tactical tool to harass, embarrass or annoy one's adversary. Rather, pretrial discovery was implemented to simplify the issues in a case, to eliminate the elements of surprise, to encourage the settlement of cases, to avoid the cost of litigation, and to achieve a balanced search for the truth to ensure a fair trial. *Elkins v. Syken*, 672 So.2d 517 (Fla.1996).

Here the petitioners argue that the information sought to be discovered regarding prostitution and their sexual activities was propounded solely to embarrass them and to invade their right to privacy. The petitioners also claim that this information is privileged under section 796.09 and is not calculated to lead to evidence which would be admissible at trial.

Section 796.09 provides a person with a civil cause of action for compensatory and punitive damages against anyone who coerces that person into prostitution, who coerces that person to remain in prostitution, or who uses coercion to collect or receive any part of that person's earnings derived from prostitution. In the course of litigation under this section, any transaction about which a plaintiff testifies or produces evidence does not subject the plaintiff to criminal prosecution or to any penalty or forfeiture. In addition, any testimony or evidence or any information produced by the plaintiff or wit-

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ness for the plaintiffs cannot be used against the plaintiffs or witness in any other investigation or proceeding, except one for perjury.

Section 796.09(5) specifically provides that it is not a defense that the plaintiff was paid or otherwise compensated for prostitution, that the plaintiff had engaged in prostitution prior to any involvement with the defendant or that the plaintiff made no attempt to escape from the defendant. Section 796.09(6) provides that convictions for prostitution or prostitution-related offenses are inadmissible for the purpose of attacking the plaintiffs' credibility.

This legislation was the result of the Florida Supreme Court Gender Bias Study Commission, which conducted an extensive investigation of prostitution in this state. The Commission's activities included interviews with law enforcement and corrections personnel,\*1079 judges, public defenders, prosecutors, drug rehabilitation counselors, social workers, medical personnel, prostitutes, clients and pimps. The Commission found prostitution to be prevalent and uniform throughout the state and law enforcement largely unable to deter it under prevailing social attitudes and judicial practices. The Commission further found that prostitutes are often victims of economic, physical, and psychological coercion, that most persons do not chose to become prostitutes, but do so to survive, and that ninety percent of street prostitutes, both adult and children, are controlled by pimps who use a variety of coercive methods to maintain this control. The Commission determined that clients and pimps are rarely prosecuted and, when prosecuted, receive light sentences; whereas prostitutes, who are mainly females, are frequently prosecuted and receive harsher treatment in the courts. The Commission recommended changes in the methods of intervention in prostitution from punitive to therapeutic, changes in the law to require more equal treatment by the courts of the prostitute in relation to the client and the pimp and to lessen the incentive to traffic in human flesh by giving the prostitute access to the judicial system without first having to be

arrested.

Under section 796.09, the petitioners' prior involvement in prostitution and their earnings from prostitution would be irrelevant. Hence discovery should not be permitted because such information would not be admissible at trial nor would it be reasonably calculated to lead to evidence ultimately admissible at trial. Even though the scope of discovery is generally quite broad, section 796.09 is designed to encourage prostitutes to sue their pimps. Thus the usually broad scope of discovery may be constricted so that prostitutes will not be embarrassed, harassed or hindered in their actions.

[3] Had the petitioners brought their lawsuit against Ruzzo and The Boardroom *only* under section 796.09, evidence of petitioners' past prostitution, including with the Boardroom, and their earnings relating to such activities, may not have been discoverable. However, the petitioners filed a multi-count complaint for compensatory and punitive damages, alleging numerous causes of action against the respondents. These other causes carry no such protection from discovery. Since the information sought by discovery may be relevant or may lead to the discovery of admissible evidence in one or more of these *other* causes of action or to determination of damages, we cannot conclude that the trial court departed from the essential requirements of law in granting this discovery. See *Smith v. TIB Bank of the Keys*, 687 So.2d 895 (Fla. 3d DCA 1997) (by alleging fraud as well as breach of contract, purchaser placed at issue her reliance on venders' assertions, the veracity of financial documents she submitted to the vender, and the state of her mental health, including memory problems she was experiencing at the time of the alleged tortious conduct, thus deposition questions concerning her state of mind were relevant).

Petition for Writ of Certiorari DENIED.

THOMPSON, J., concurs.  
HARRIS, J., concurs specially with opinion.  
HARRIS, Judge, concurring specially:

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There is a temptation in cases such as this to inquire which, the pot or the kettle, is imbued with the darker hue. Indeed that may ultimately be the question uppermost in the jurors' minds. But the issue presently before us is simply whether the pot, in order to establish the parties' comparative complexion, may discover the historical condition and the inherent characteristics of the kettle.

We are here involved with parties that the limited record before us indicates were co-conspirators in a joint effort to violate Florida's laws against prostitution. The defendants are the owner/operators of a "social club" whose primary service is prostitution; the plaintiffs are employees of the club who provide such services. The employees are suing the owner/operators for, among other counts, taking advantage of their vulnerabilities ("coercing" them to be prostitutes) through manipulation and exploitation. In order to prepare a defense to the action, defendants have filed certain interrogatories for the employees to answer. These interrogatories\*1080 request such information as how long the employees have been engaged in prostitution; how the employees have been affected by the defendants' conduct; copies of photographs, movies, and videotapes in which the employees have performed sexual acts or simulated sexual acts; the names of previous employers and previous rates of pay; and a statement of income received from defendants. These interrogatories survived the employees' objections. I agree certiorari should be denied.

The employees' primary cause of action is based on section 796.09(1), Florida Statutes, which provides:

- (1) A person has a cause of action for compensatory and punitive damages against:
  - (a) A person who coerces that person into prostitution;
  - (b) A person who coerces that person to remain in prostitution, or
  - (c) A person who uses coercion to collect or receive

any part of that person's earnings derived from prostitution.

The employees resist discovery of their past prostitution or their past or present earning experience on the basis of subparagraph 5 of section 796.09:

(5) It does not constitute a defense to a complaint under this section that:

- a) The plaintiff was paid or otherwise compensated for acts of prostitution;
- b) The plaintiff engaged in acts of prostitution prior to any involvement with the defendant ...

But the question before us is not whether prior acts of prostitution (or the receipts of earnings therefrom) which might be revealed by answering the interrogatories could be used as a defense to the complaint, but rather whether evidence of such conduct or such earnings would be relevant in determining whether the employees were, in fact, "coerced" into prostitution, into remaining prostitutes, or into sharing the proceeds of their services with defendants. The relevancy of this information depends, of course, on what constitutes coercion.

If we apply the definition of "coercion" which is commonly accepted, then the relevancy of the requested information is apparent and this appeal has no merit at all. Webster defines "coercion" as: (1) to restrain or dominate by force, (2) to compel an act or choice, or (3) to enforce or bring about by force or threat. In sexual battery cases, the legislature has adopted the common meaning of the word "coercion" and has even placed limits on it. It has provided that consent will not be recognized if submission is coerced by threats of force or violence if the victim reasonably believes the perpetrator has the present ability to execute the threat.<sup>FN1</sup> Consent also will not be recognized if submission is coerced by a threat of retaliation against the victim or another if the victim reasonably believes that the perpetrator has the ability to execute the threat in the future.<sup>FN2</sup> And in sexual battery cases, the legislature has vitiated what might otherwise be con-

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sidered as consensual if one exploits a known physical or mental weakness of the victim to achieve his or her goal or takes advantage of one who is physically helpless or involuntarily intoxicated.<sup>FN3</sup> Therefore, even in sexual battery cases, before coercion or exploitation will vitiate consent, the free will of the victim must be overcome by force or threat or some unfortunate circumstance suffered by the victim.

FN1. Section 794.011(4)(b), Florida Statutes.

FN2. Section 794.011(4)(c), Florida Statutes.

FN3. Section 794.011(4)(a),(d),(e), and (f), Florida Statutes.

But then we get to the definition of "coercion" contained in section 796.09(3):

(3) As used in this section, the term "coercion" means any practice of dominion, restraint, or inducement for the purpose of or with the reasonably foreseeable effect of causing another person to engage in or remain in prostitution or to relinquish earnings derived from prostitution, and includes, but is not limited to:

- (a) Physical force or threats of physical force.
- (b) Physical or mental torture.
- (c) Kidnapping.
- \*1081 (d) Blackmail.
- (e) Extortion or claims of indebtedness.
- (f) Threats of legal complaint or report of delinquency.
- (g) Threat to interfere with parental rights or responsibilities, whether by judicial or administrative action or otherwise.
- (h) Promise of legal benefit.

(I) Promise of greater financial rewards!

(J) Promise of marriage.

(K) Restraint of Speech or communications with others.

(L) Exploitation of a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency.

(M) Exploitation of victimization by sexual abuse.

(N) Exploitation of pornographic performance.

(O) Exploitation of human needs for food, shelter, safety, or affection.

The definition urged by the employees herein is the "promise of a greater financial reward." Whether the requested information is relevant to the issue of coercion in this case will depend on what the legislature intended by subsection (I) in the meaning of "coercion."

I agree with Judge Altenbernd's thoughtful analysis in *State v. Brigham*, 694 So.2d 793 (1997):

There can be no dispute that the legislature's unusual definition of "percent" is not a common dictionary definition. This is perhaps an appropriate case in which to remind ourselves of Learned Hand's famous observation that a "mature and developed jurisprudence" does not "make a fortress out of the dictionary."

But even so, one would expect some nexus between the commonly accepted meaning of a word and the definition of that word ascribed by the legislature. If, for example, the legislature defined "canine" as including cats, although one might, jurisprudentially speaking, expect to hear a meow emanate from a Great Dane, the courts should nevertheless closely examine the legislative history to see if that is really what the legislature intended. The court in *Young v. O'Keefe*, 246 Iowa 1182, 69 N.W.2d 534, 537 (1955), stated this principle as follows: "But

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(Cite as: 703 So.2d 1076)

before a definition is construed so as to expand the meaning of a well-known word to include its antonym ..., the intention of the legislature to that effect must be clear." As Judge Campbell observed in *Catron v. Roger Bohn, D.C., P.A.*, 580 So.2d 814, 818 (Fla. 2d DCA 1991):

It is our primary duty to give effect to legislative intent and, if a literal interpretation of a statute leads to unreasonable results, then we should exercise our power to interpret reason and logic to it.

\*\*\*\*\*

Unfortunately, it is apparent that in enacting this legislation, the legislature has, without redefining the terms for the purposes of this legislation, often used terms with commonly accepted meanings for purposes at great variance from those commonly accepted meanings.

In our case, the legislature did define the term for the purpose of the act. But because the term (coercion) as so defined can be interpreted two ways—one consistent with the commonly accepted meaning and one at variance—we should not accept the "antonym" unless such legislative intent is clear. A free will decision, even if based on a hope of financial gain, is the opposite of a coerced decision.

The employees urge that the mere promise of a greater reward brings them within the act. But if the mere promise of a greater reward is sufficient to establish coercion, then anyone who makes a voluntary and reasoned exercise of free will motivated by the hope of economic gain has been coerced. This definition removes the element of compulsion implicit in the commonly accepted meaning of coercion and substitutes therefor the mere desire for financial gain. The employees herein assert that since they were offered "a greater financial reward" for providing the services performed by them through defendants' establishment, they were coerced into their prostitution activities. This equates the giving

of an opportunity to make a decision with the coercion of that decision. But subsection (1) can also mean "1082 that the promise of a greater reward is coercion only if such promised reward is sufficient to overcome one's natural revulsion to selling one's body for money. If there is no such revulsion, there can be no coercion. Becoming a prostitute only because one likes the hours and wages or "because it beats the heck out of working for a living" simply should not meet the test of section 796.09(1).

At oral argument herein, it was suggested without contradiction, that at least one of the employees has a college degree and gave up a well-paying, legitimate job in order to engage in this profession for the greater reward. Section 796.09 does not appear to be a general prostitute's relief act. It is based on a report by the Gender Bias Study Commission which recommended the equalization of treatment in relation to the prostitute, the client and the "pimp." It is based on the premise that prostitutes are generally victims of economic, physical, and psychological coercion and choose prostitution in order to survive. Further, the Commission was concerned that 90 percent of the street prostitutes are controlled by "pimps" who use a variety of coercive methods to maintain control. It seems clear that the legislature was not intending to depart from the precepts of the commonly understood meaning of "coercion" and to redefine it to include both free will decisions and compelled decisions. The interpretation urged by the employees seems at variance with the stated goal of the legislature and the Gender Bias Commission.

Since there is no cause of action provided for one who makes a reasoned and voluntary exercise of their free will to enter or continue in the profession solely for financial rewards (assuming "coercion" is given the definition more consistent with its commonly accepted meaning and assuming that my interpretation of legislative intent is correct), coercion becomes the critical issue in the trial of such action. The interrogatories propounded by defendants appear relevant to the issue of coercion.

703 So.2d 1076  
703 So.2d 1076, 22 Fla. L. Weekly D2375, 23 Fla. L. Weekly D169  
(Cite as: 703 So.2d 1076)

This is a case of first impression based on a relatively new statute. As indicated, the legislative history of the new law suggests that the statute is designed to assist those who were forced to enter prostitution in order to keep a roof over their heads or food on their table. It does not appear to be intended to aid those who voluntarily enter the profession in order to drive a Mercedes instead of a Ford. The limited record before us indicates that even beginning employees of the defendants (those who do not have an established clientele) bring in \$700 a day and can keep 50% of their earnings. Based on a five-day work week, this would reflect an income of \$87,500 a year even with a two week vacation. And the employees herein are not beginners.

There is no indication that the legislature intended to legalize prostitution or to make it a respectable profession. It merely intended to place the prostitute on the same footing with the client and the "pimp." If a prostitute voluntarily makes the decision to participate, free from force, intimidation, or disadvantageous circumstance, then he or she is on the same footing as the other participants and should be treated the same.

Although it might well serve a legitimate public purpose to permit the cannibalistic demise of such enterprises (and I am not unsympathetic with this view), that does not appear to be the policy behind the current statute. Therefore, in cases where coercion is not present (and this may or may not be one), the court should continue its tradition of not interceding in civil conflicts involving transactions that are either illegal or are against public policy. See *Wechsler v. Novak*, 157 Fla. 703, 26 So.2d 884 (1946); *Thomas v. Ratner*, 462 So.2d 1157, 1160 (Fla. 3d DCA 1984), *rev. denied*, 472 So.2d 1182 (Fla. 1985) ("An action may lie for interference with an unenforceable contract and even perhaps a voidable contract. No such cause of action lies for interference with a contract void as against public policy [another's representation of a client obtained by a doctor/lawyer's illegal personal injury solicitation

in the hospital] and which makes one who is a party thereto, as the appellant in the instant case, guilty of a criminal act for entering into such an agreement.")

We are not asked in this proceeding to rule on the admissibility of the discovered information as evidence at the trial of this cause. We are to determine only if the information might lead to admissible evidence. Even \*1083 though we deny the Writ I suggest we certify the following question:

DOES ONE, FREE FROM FORCE, INTIMIDATION, OR DISADVANTAGEOUS CIRCUMSTANCE, WHO MAKES A REASONED DECISION TO BECOME OR REMAIN A PROSTITUTE OR TO SHARE THE PROCEEDS THEREOF BECAUSE OF A PROMISE OF A GREATER FINANCIAL REWARD HAVE A CAUSE OF ACTION UNDER SECTION 796.09(1), FLORIDA STATUTES?

*ON MOTIONS FOR REHEARING, FOR CLARIFICATION, FOR CERTIFICATION, AND FOR REHEARING EN BANC*

W. SHARP, Judge.  
Petitioners Balas and Shumate have filed motions for rehearing, clarification and certification. We deny the motions in full except for one regard. We delete the sentence in the last full paragraph of the opinion which reads: "These other causes of action carry no such protection from discovery."

Motion for Clarification GRANTED as stated above; Motion for Rehearing and Certification DENIED.

HARRIS and THOMPSON, JJ., concur.  
Fla.App. 5 Dist., 1997.  
*Balas v. Ruzzo*  
703 So.2d 1076, 22 Fla. L. Weekly D2375, 23 Fla. L. Weekly D169

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IN THE COURT OF THE FIFTEENTH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

A.C.,

CASE NO. 502008CA025129XXXMB AI

Plaintiff,

v.

JEFFREY E. EPSTEIN, and [REDACTED]

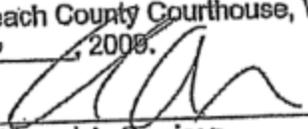
Defendants.

ORDER ON DEFENDANT EPSTEIN'S MOTION TO COMPEL RESPONSES TO  
FIRST REQUEST TO PRODUCE TO PLAINTIFF AND TO OVERRULE  
PLAINTIFF'S OBJECTIONS, & FOR DEFENDANT'S EXPENSES,  
INCLUDING ATTORNEYS' FEES

THIS CAUSE came before the Court on Defendant Epstein's Motion To Compel Responses To First Request To Produce To Plaintiff And To OVERRULE Plaintiff's Objections, & For Defendant's Expenses, Including Attorneys' Fees and the Court having heard argument of counsel and being fully advised in these premises, it is hereby

ORDERED and ADJUDGED that Defendant's Motion is hereby granted/  
denied as to #17 + #18, and denied  
as to #22 as phrased. Responses to  
be filed w/in 10 days.

DONE AND ORDERED at Palm Beach County Courthouse, West Palm Beach, Florida, this 23 day of FEB, 2008.

  
Edward A. Garrison  
Circuit Judge

Copies furnished:  
ROBERT D. CRITTON, JR., ESQ., and MICHAEL J. PIKE, ESQ., 515 North Flagler Drive, Suite 400, West Palm Beach, FL 33401; JACK SCAROLA, ESQ., AND JACK P. HILL, ESQ., Searcy Denney Scarola Barnhart & Shipley, P.A., 2139 Palm Beach Lakes Blvd., West Palm Beach, FL 33409, and JACK A. GOLDBERGER, ESQ., Afterbury Goldberger & Weiss, P.A., One Clearlake Centre, Suite 1400, 250 Australian Avenue South, West Palm Beach, FL 33401

EXHIBIT "C"

cc-JE, LG, DJ  
2/23/08  
=31

IN THE COURT OF THE FIFTEENTH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

A.C.,

CASE NO. 502008CA025129XXXMB AI

Plaintiff:

v.

JEFFREY E. EPSTEIN, and [REDACTED]

Defendants.

ORDER ON DEFENDANT EPSTEIN'S MOTION TO COMPEL ANSWERS TO  
INTERROGATORIES AND TO OVERRULE PLAINTIFF'S OBJECTIONS, & FOR  
DEFENDANT'S EXPENSES, INCLUDING ATTORNEYS' FEES

THIS CAUSE came before the Court on Defendant Epstein's Motion To Compel Answers To Interrogatories And To Overrule Plaintiff's Objections, & For Defendant's Expenses, Including Attorneys' Fees, and the Court having heard argument of counsel and being fully advised in these premises, it is hereby

ORDERED and ADJUDGED that Defendant's Motion is hereby granted/

~~denied~~ as to #5, 12 & 18, denied as to #2. Responses to be served within 10 days.

DONE AND ORDERED at Palm Beach County Courthouse, West Palm Beach, Florida, this 23 day of Feb, 2009.

  
Edward A. Garrison  
Circuit Judge

Copies furnished:  
ROBERT D. CRITTON, JR., ESQ., and MICHAEL J. PIKE, ESQ., 615 North Flagler Drive, Suite 400, West Palm Beach, FL 33401; JACK SCAROLA, ESQ., AND JACK P. HILL, ESQ., Searcy Denney Scarola Barnhart & Shipley, P.A., 2139 Palm Beach Lakes Blvd., West Palm Beach, FL 33409, and JACK A. GOLDBERGER, ESQ., Atterbury Goldberger & Welsh, P.A., One Clearlake Centre, Suite 1400, 250 Australian Avenue South, West Palm Beach, FL 33401

cc: ENG, DF  
Ch. filed  
in 2/23/09  
3/1/09

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 50 2008CA020614XXXXMB AF

JANE DOE II,

Plaintiff,

vs.

JEFFREY EPSTEIN and [REDACTED],

Defendants.

COPY

COURT REPORTER'S TRANSCRIPT OF  
PROCEEDINGS HAD BEFORE  
THE HONORABLE DIANA LEWIS

DATE: March 3, 2009

PLACE: Palm Beach County Courthouse  
205 N. Dixie Highway  
West Palm Beach, Florida 33401

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EXHIBIT D

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APPEARANCES:

GARCIA LAW FIRM, P.A.  
224 Datura Avenue  
Suite 900  
West Palm Beach, Florida 33401  
Counsel for Plaintiff  
BY: ISIDRO M. GARCIA, ESQUIRE

BURMAN, CRITTON, LUTTIER & COLEMAN  
515 N. Flagler Drive  
Suite 400  
West Palm Beach, Florida 33401  
Counsel for Defendant  
BY: ROBERT D. CRITTON, JR., ESQUIRE

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that but I'd just like to do that.

THE COURT: Right. And if you want to contact the other individuals saying, you know, I'm the one that's questioning whether or not these need to be before one judge. You may have a different perspective than your colleagues who are prosecuting some of the cases.

I understand the damages. I'm not saying consolidate. I'm saying transfer. It's not a consolidation issue. Everybody gets that confused for some reason. The words are very different out of my mouth, your mouth and how they're written.

So let me go ahead and take a gander at this. I did read it last night. I'm not sure that we need to get -- we need names?

MR. CRITTON: Right. Well, here's what some of the issues are is that, as an example -- if I could approach the bench.

THE COURT: Sure.

MR. CRITTON: This is some of the information that we've obtained through discovery from some of the -- from at least in this instance, it would be this particular Jane Doe.

THE COURT: You know who Jane Doe is I take

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it?

MR. CRITTON: Right.

THE COURT: You know who the Jane Doe is?

MR. CRITTON: Yes, correct. And so this particular lady has kept in part a diary and she -- which appears to have started some time -- this is not in any way significant -- but some time after she learned that she could file a lawsuit. I think she's also been to Oakwood Center some time after she learned she could file a lawsuit and seek damages from Mr. Epstein.

There's no history of this lady beforehand other than in some of the Oakwood records where she was Baker Acted, she started drinking beer at 16, she started Xanax at 16, started marijuana at 15, that she's sexually active:

So how she has interacted -- she has a claim for emotional damages, mental pain and anguish, psychiatric-type damages. How she's interacted with friends, with family, the events in her life, school, work, her interpersonal relationships both with men and let's -- we'll use an example men here, but other individuals. She's saying that this event with Mr. Epstein,

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1 this sexual assault and whatever occurred during  
2 these events is that -- has caused her damage.  
3 ~~And therefore damages in the case such~~  
4 as the emotional, mental, psychiatric-type  
5 damages are completely subjective, I mean  
6 separate and apart from any medical bills that  
7 may be -- which are clearly intangible. So these  
8 are intangible damages. And the jury is  
9 instructed, you know, you advise the greater  
10 weight of the evidence, what's fair and  
11 reasonable under the circumstances.

12 So what we would have is basically this  
13 young lady's testimony as to what she claims her  
14 damages are and what the circumstances are with  
15 her situation with Mr. Epstein. She claims on  
16 page 13, you know, I love this guy, I'm dating  
17 this guy Chris. On page 15 --

18 THE COURT: Is this part of a diary for  
19 treatment?

20 MR. CRITTON: I have no idea what it is. It  
21 was just produced in response to discovery. And  
22 she apparently started in, I think this is  
23 December of '08. You know I took Jay Lyntenis'  
24 girl to the zoo, had an amazing day, I love her,  
25 i.e., the girl. We have so much fun. I want a

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1 baby especially with him. Okay. So I know who  
2 this person is. We are all so open together, I  
3 love him [REDACTED] Jay and Lynn, what do I do with  
4 Chris, who is another guy in her life.

5 All right. This is circumstances where  
6 this young lady is saying, look, Jeffrey Epstein  
7 has ruined my life from a damage standpoint,  
8 okay. Let me depose other individuals with whom  
9 you've had a relationship. And what if it turns  
10 out -- as with some of these girls did -- is they  
11 had relationships or had escapades or  
12 circumstances with individuals, older men similar  
13 to Mr. Epstein well before Mr. Epstein.

14 And this girl, I don't know one way or  
15 the other, but let's assume she had a situation  
16 where she was assaulted or molested or raped,  
17 that all is going to affect her emotional and her  
18 mental pain and anguish and it will all factor  
19 into evaluating damages.

20 You know, it's not something that I'm  
21 going to spread around. I'm happy to keep it,  
22 you know, within the confines of the discovery of  
23 this case. But if she says every other  
24 relationship in my life has been perfect but Jeff  
25 Epstein has done this to me and it has affected

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1 my ability to trust men and my sexual  
2 relationships with other men, which is part of  
3 her interpersonal relationships, okay, let's talk  
4 to Sam Smith.

5 THE COURT: When does your client allege  
6 that she had her first encounter with  
7 Mr. Epstein?

8 MR. GARCIA: At what age?

9 THE COURT: Well, what year?

10 MR. CRITTON: June of '03.

11 MR. GARCIA: June of '03, Judge.

12 MR. CRITTON: She claims from June of '03  
13 through November of '04.

14 MR. GARCIA: She was I believe 16 at the  
15 beginning and ended at 17. She was a minor  
16 during all this time.

17 THE COURT: June of '03 to now is six years.

18 Let me hear from Mr. Garcia.

19 MR. GARCIA: Judge, in the criminal case  
20 that was filed against Mr. Epstein, he would not  
21 have had a right to do this type of discovery and  
22 I -- if I could hand up --

23 THE COURT: They wouldn't care about the  
24 women.

25 MR. GARCIA: Right. Well, I mean --

1 THE COURT: This is damages. There's no --  
2 they weren't seeking damages at the time.

3 MR. GARCIA: Right. And we have not alleged  
4 in the complaint or in the answers to  
5 interrogatories that her ability to have a  
6 relationship with a man has been affected by  
7 Mr. Epstein's conduct.

8 We have alleged that she has been  
9 hospitalized for depression, anxiety but we have  
10 not alleged any damages concerning -- the only  
11 reason this would be relevant is if we were  
12 making a claim at her ability to have either  
13 sexual relations or to have emotional relations  
14 with men was effected by her experience with  
15 Mr. Epstein.

16 So this damages' claim is just a smoke  
17 screen to attempt to get evidence to show the  
18 jury that this woman has had other consensual  
19 relationships with young men that are  
20 approximately her age what I would characterize  
21 as a slut defense. She had it coming to her  
22 because she engaged in other voluntarily  
23 consensual --

24 THE COURT: Mr. Critton wouldn't try the  
25 slut defense in my courtroom, I'm sure.

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1 MR. GARCIA: Maybe not, but certainly that's  
2 the way this discovery is going. And, Judge,  
3 what --

4 THE COURT: What are the damages you think  
5 your client is seeking?

6 MR. GARCIA: She is seeking emotional  
7 distress damages for depression and anxiety and  
8 she has been hospitalized at the Oakwood Center.  
9 Her friend -- she was on the phone to a friend  
10 who called the sheriff's office because she  
11 thought she was suicidal. The sheriffs  
12 responded. They Baker Acted her that day and  
13 they took her eventually to the Oakwood Center.

14 THE COURT: How do we know it's not  
15 intertwined with her rejection by three other men  
16 since Mr. Epstein?

17 MR. GARCIA: Well, even if it was related to  
18 her rejection by three other men -- you mean  
19 other men's rejection of her?

20 THE COURT: Yeah. Well, how do you not know  
21 that? I mean you can't do it until you do  
22 discovery. Has anybody attempted to review the  
23 records from Oakwood to find out what's going on?

24 MR. CRITTON: It's like a one-time visit  
25 when she was Baker Acted and then there's some

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other --

THE COURT: She didn't receive treatment?

MR. CRITTON: ~~She received treatment for~~

that day and she's been back a couple of times. She's on medication. Again, I don't know what or the extent but she's got -- her medical bills are de minimis.

Again as an example, Judge, did the Court have an opportunity to look at the case that I also attached to the motion? Because there's a case that's almost on all fours with this which I attached to our motion which is called Balles versus Russo.

THE COURT: Right.

MR. CRITTON: It was a case where the plaintiff was sued -- the plaintiff sued the former owners of a house of prostitution. So that part is different, but within it there were a number of claims including a sexual assault claim and they sought emotional pain, humiliation and emotional distress.

Within the complaint that was filed in this particular case, she is seeking severe emotional distress, mental anguish, humiliation, embarrassment, past and future, compensatory

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1 humiliation, loss of reputation, mental anguish,  
2 pain and suffering, the same type of damages.

3 And what the Court said --

4 THE COURT: How old is she now?

5 MR. GARCIA: She's 21 now.

6 MR. CRITTON: She's 21 now. What the Court  
7 said is, you know, if you'd only brought this  
8 claim under 796 evidence of past issues, it's not  
9 an issue. You can't use this defense for  
10 anything, but because you brought these other  
11 claims which include, you know, sexual assault  
12 and you're seeking damages for other causes of  
13 action since the information sought by discovery  
14 may be relevant or may lead to the discovery of  
15 admissible evidence in one or more of the other  
16 causes of action or determination of damages, we  
17 cannot conclude the trial court parted from  
18 essential requirements of law in granting --

19 THE COURT: So in other words, she's not  
20 only seeking -- she's seeking current emotional  
21 damage as a result of this relationship and  
22 you're trying to find out if she had prior  
23 relationships that perhaps could be intertwined  
24 with it so that it's not just Mr. Epstein's --

25 MR. CRITTON: Right. A perfect example is

U.S. Legal Support  
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1 one of the cases that I have is there's a young  
2 lady who claims that she was molested in the past  
3 and raped, pretty significant issues, well in  
4 advance of her even meeting with Mr. Epstein.  
5 And they seem to play a large role in her  
6 psychiatric and psychological evaluation.

7 We're going to come to the Court in  
8 this case as we have others and ask for a  
9 psychological evaluation of this lady, and if she  
10 was raped or if she was molested or just she had  
11 a bad experience or some -- whether it was a  
12 young or old man assaulted her in some fashion,  
13 that may play a role in her damages and what --

14 THE COURT: What I'm going to allow for  
15 discovery purposes only not necessarily getting  
16 it in at the time trial are two years before her  
17 first encounter with Mr. Epstein and anything  
18 subsequent.

19 MR. GARCIA: Judge, I just wanted to say on  
20 the record because I forgot to mention it,  
21 there's also -- I did state an objection to the  
22 identity of people that are unrepresented in this  
23 courtroom. They have rights too. So what I --

24 THE COURT: Well, my suggestion is that you  
25 send those people a letter and tell them that

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1 you're going to disclose them and if they have a  
2 problem with it that they come to see me before  
3 you disclose it.

4 So I'm going to give you 20 days to  
5 respond to this rather than the usual five and  
6 that will give you time to put these people on  
7 notice and if they want to come visit with me and  
8 have a John Doe, I'll have a John Doe hearing  
9 but, you know, this is her case. She's doing it.  
10 She's the one seeking damages, and he is entitled  
11 to be able to confront other individuals to find  
12 out information that may be relevant to the  
13 damages she's seeking or she can drop the  
14 damages. That's her choice. If you seek  
15 damages, you've got to do it -- if you could put  
16 that in an order so that we have a time for him  
17 to do this.

18 Just fill out an order, hand it back up  
19 to me and I'll deal with it.

20 (The proceedings were concluded.)  
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[REDACTED]

1 REPORTER'S CERTIFICATE

2 THE STATE OF FLORIDA,

3 COUNTY OF PALM BEACH.

4  
5 I, Teresa Bell, Court Reporter, certify that  
6 I was authorized to and did stenographically report  
7 the foregoing proceedings and that the transcript is a  
8 true and complete record of my stenographic notes.

9 I further certify that the proceedings were  
10 taken at the time and place shown herein and that all  
11 counsel and persons as hereinabove shown were present.

12 I further certify that I am not a relative,  
13 employee, attorney or counsel of any of the parties,  
14 nor am I a relative or employee of any of the parties'  
15 attorney or counsel connected with the action, nor am  
16 I financially interested in the action.

17 Dated this 11th day of *January* *2009*.

18  
19 TERESA BELL,  
20 Court Reporter  
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U.S. Legal Support  
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and Gloria C. Hakkarainen, M.D. until such time as the Court decides whether the statutory damages pursuant to 18 U.S.C. §2255 are available to a victim of an enumerated sexual offense on a per incident basis.

---

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

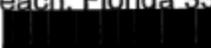
Counsel for the movant conferred via telephone with counsel for the Defendant and counsel for the Defendant is not in agreement with Plaintiff's Motion For Protective Order Regarding Treatment Records From the Parent-Child Center, Inc., Dr. Serge Thys, Dominique Hyppolite/School District of Palm Beach County, Good Samaritan Hospital, St. Mary's Hospital, Florida Atlantic University and Gloria C. Hakkarainen, M.D. and Incorporated Memorandum of Law.

**/s/ Jack P. Hill**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 20th day of July, 2009, I electronically filed the foregoing with the Clerk of the Court by using CM/ECF system, which will send a notice of electronic filing to all counsel of record on the attached service list.

/s/ Jack P. Hill

Jack Scarola  
Florida Bar No.: 169440  
Jack P. Hill  
Florida Bar No.: 0547808  
Searcy Denney Scarola Barnhart & Shipley, P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, Florida 33409  
Phone:   
Fax:   
Attorneys for Plaintiff

COUNSEL LIST

Richard H. Willits, Esquire  
Richard H. Willits, P.A.  
2290 10th Avenue North, Suite 404  
Lake Worth, FL 33461  
Phone: [REDACTED]  
Fax: [REDACTED]

Robert Critton, Esquire  
Burman Critton Luttier & Coleman LLP  
515 North Flagler Drive, Suite 400  
West Palm Beach, FL 33414  
Phone: [REDACTED]  
Fax: [REDACTED]

Jack A. Goldberger, Esquire  
Atterbury, Goldberger & Weiss, P.A.  
250 Australian Avenue South  
West Palm Beach, FL 33401  
Phone: [REDACTED]

Bruce E. Reinhart, Esquire  
Bruce E. Reinhart, P.A.  
250 South Australian Avenue  
Suite 1400  
West Palm Beach, FL 33401  
Phone: [REDACTED]  
Fax: [REDACTED]