

LRJ

**U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:08-cv-80736-KAM**

Doe v. United States of America
Assigned to: Judge Kenneth A. Marra
Cause: no cause specified

Date Filed: 07/07/2008
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government
Defendant

Petitioner

Jane Doe

represented by **Bradley James Edwards**
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Paul G. Cassell
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V.

Respondent

United States of America

represented by **Ann Marie C. Villafana**
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Date Filed	#	Docket Text
03/21/2011	<u>51</u>	Plaintiff's MOTION <i>Jane Doe #1 and Jane Doe #2's Motion to Use Correspondence to Prove Violations of the Crime Victims' Right Act and to Have Their Unredacted Pleadings Unsealed</i> by Jane Doe. (Edwards, Bradley) (Entered: 03/21/2011)
03/21/2011	<u>50</u>	Plaintiff's MOTION <i>Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence</i> by Jane Doe. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order PROPOSED ORDER)(Edwards, Bradley) (Entered: 03/21/2011)
03/21/2011	<u>49</u>	Plaintiff's MOTION <i>Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of the Facts</i> by Jane Doe. (Edwards, Bradley) (Entered: 03/21/2011)
03/21/2011	<u>48</u>	Plaintiff's MOTION for Summary Judgment <i>REDACTED- Jane Doe #1 and Jan Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for Hearing on Appropriate Remedies</i> by Jane Doe. Responses due by 4/7/2011 (Attachments: # <u>1</u> Exhibit A-SEALED, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K)(Edwards, Bradley) (Entered: 03/21/2011)
03/18/2011	<u>47</u>	ORDER granting <u>46</u> Motion for Leave to File Excess Pages. Signed by Judge Kenneth A. Marra on 3/18/2011. (ir) (Entered: 03/18/2011)
03/18/2011	<u>46</u>	Unopposed MOTION for Leave to File Excess Pages <i>of Statement of Facts in Support of their Motion for Finding of Violations of the Crime Victims' Right Act</i> by Jane Doe. (Attachments: # <u>1</u> Text of Proposed Order)(Edwards, Bradley) Modified on 3/18/2011 (ls). (Entered: 03/18/2011)
12/17/2010	<u>45</u>	STATUS REPORT by United States of America (Villafana, Ann Marie) (Entered: 12/17/2010)
10/28/2010	<u>44</u>	ORDER REOPENING CASE. Signed by Judge Kenneth A. Marra on

		10/28/2010. (ir) (Entered: 10/28/2010)
10/28/2010	43	Clerks Notice to Filer re <u>41</u> Status Report. Two or More Document Events Filed as One ; ERROR - Only one event was selected by the Filer but more than one event was applicable to the document filed. The docket entry was corrected by the Clerk. It is not necessary to refile this document but in the future, the Filer must select all applicable events. (ls) (Entered: 10/28/2010)
10/27/2010	42	RESPONSE TO ORDER TO SHOW CAUSE by Jane Doe. (ls)(See Image at DE # <u>41</u>) (Entered: 10/28/2010)
10/27/2010	<u>41</u>	STATUS REPORT by Jane Doe (Edwards, Bradley) Modified to add missing event 42 Response to Order to Show Cause on 10/28/2010 (ls). (Entered: 10/27/2010)
10/12/2010	<u>40</u>	ORDER TO SHOW CAUSE for lack of prosecution. Show Cause Response due by 10/27/2010. Signed by Judge Kenneth A. Marra on 10/8/2010. (ir) (Entered: 10/12/2010)
09/13/2010	<u>39</u>	NOTICE by Jane Doe re <u>38</u> Administrative Order <i>In Response to Administrative Order Closing Case</i> (Edwards, Bradley) (Entered: 09/13/2010)
09/08/2010	<u>38</u>	Administrative Order Closing Case. Signed by Judge Kenneth A. Marra on 9/8/2010. (tb) (Entered: 09/09/2010)
04/09/2009	<u>37</u>	NOTICE by Jane Doe of <i>Change of Firm Affiliation</i> (Edwards, Bradley) (Entered: 04/09/2009)
02/12/2009	<u>36</u>	ORDER denying <u>28</u> Motion to Unseal Document. Signed by Judge Kenneth A. Marra on 2/12/2009. (ir) (Entered: 02/12/2009)
12/22/2008	<u>35</u>	AFFIDAVIT signed by : A. Marie Villafana. re <u>14</u> Affidavit, <u>13</u> Response/Reply (Other) <i>Supplemental Declaration</i> by United States of America. (Attachments: # <u>1</u> Certification Certificate of Service)(Villafana, Ann Marie) (Entered: 12/22/2008)
12/09/2008	34	Clerks Notice of Docket Correction re 33 Sealed Document. Error(s): Sealed Document Filed in Wrong Case; Correction - Original document restricted and refiled in correct case. (rb) (Entered: 12/09/2008)
12/05/2008		SYSTEM ENTRY - Docket Entry 32 restricted/sealed until further notice. (dj) (Entered: 11/03/2010)
12/05/2008	33	Sealed Document. (rb) (Entered: 12/05/2008)
10/17/2008		Clerks Notice of Docket Correction and Instruction to Filer re <u>30</u> Response/Reply (Other), Response/Reply (Other) filed by Jane Doe. Error - Wrong Event Selected ; Correction - Redocketed by Clerk as Reply to Response to Motion. Instruction to Filer - In the future, please select the proper event. It is not necessary to refile this document. (ls) (Entered: 10/17/2008)
10/16/2008	31	REPLY to Response to Motion re <u>28</u> MOTION to Unseal Document <i>Non-Prosecution Agreement</i> filed by Jane Doe. [See Image at DE #30] (ls) (Entered: 10/17/2008)

10/16/2008	<u>30</u>	RESPONSE/REPLY to <u>29</u> Response in Opposition to Motion to <i>Unseal Non-Prosecution Agreement</i> filed by Jane Doe. (Attachments: # <u>1</u> Exhibit October 9, 2008 letter from Brad Edwards, Esquire to AUSA Dexter Lee, # <u>2</u> Exhibit October 15, 2008 Letter from Brad Edwards, Esquire to AUSA Dexter Lee) (Edwards, Bradley) (Entered: 10/16/2008)
10/08/2008	<u>29</u>	RESPONSE in Opposition re <u>28</u> MOTION to Unseal Document <i>Non-Prosecution Agreement</i> filed by United States of America. (Villafana, Ann Marie) (Entered: 10/08/2008)
09/25/2008	<u>28</u>	MOTION to Unseal Document <i>Non-Prosecution Agreement</i> by Jane Doe. Responses due by 10/14/2008 (Attachments: # <u>1</u> Text of Proposed Order) (Edwards, Bradley) (Entered: 09/25/2008)
08/22/2008	<u>27</u>	TRANSCRIPT of Hearing held on 8/14/2008 before Judge Kenneth A. Marra. Court Reporter: Stephen Franklin - phone number [REDACTED] 25 pages. (abd) (Entered: 08/25/2008)
08/21/2008	<u>26</u>	ORDER TO COMPEL PRODUCTION AND PROTECTIVE ORDER. Signed by Judge Kenneth A. Marra on 8/21/08. (ir) (Entered: 08/21/2008)
08/20/2008	24	NOTICE of Instruction to Filer: re <u>22</u> Notice (Other) filed by United States of America Error: Wrong Event Selected; Instruction to filer - In the future please select the proper event. (ls) (Entered: 08/20/2008)
08/14/2008	25	Minute Entry for proceedings held before Judge Kenneth A. Marra: Status Conference held on 8/14/2008. Court Reporter: Stephen Franklin- phone number [REDACTED] (ir) (Entered: 08/21/2008)
08/13/2008	<u>23</u>	ORDER Setting Status Conference: Status Conference set for 8/14/2008 03:30 PM in West Palm Beach Division before Judge Kenneth A. Marra. Parties may contact the courtroom deputy at [REDACTED] to make arrangements to appear telephonically. Signed by Judge Kenneth A. Marra on 8/13/08. (ir) (Entered: 08/13/2008)
08/13/2008	<u>22</u>	NOTICE by United States of America re <u>19</u> Response/Reply (Other), Response/Reply (Other) <i>Government's Response to Petitioners' Request for Non-Prosecution Agreement and Report of Interview</i> (Lee, Dexter) (Entered: 08/13/2008)
08/13/2008	21	ENDORSED ORDER granting Jay C. Howell <u>20</u> Motion for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filings. Signed by Judge Kenneth A. Marra on 8/12/08. (ir) (Entered: 08/13/2008)
08/08/2008	<u>20</u>	MOTION for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filing for Jay C. Howell, Filing Fee \$75, Receipt #724591. (cw) (Entered: 08/12/2008)
08/01/2008	<u>19</u>	RESPONSE/REPLY to <i>Government's Notice to Court Regarding Absence of Need for Evidentiary Hearing and Motion for Production of Non-Prosecution Agreement and of Report of Interview</i> filed by Jane Doe. (Attachments: # <u>1</u> Exhibit Proposed Stipulation, # <u>2</u> Exhibit July 17, 2008 Letter, # <u>3</u> Exhibit July 3, 2008 Letter)(Edwards, Bradley) (Entered: 08/01/2008)

07/30/2008	<u>18</u>	ENDORSED ORDER granting Paul G. Cassell <u>16</u> Motion for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filings. Signed by Judge Kenneth A. Marra on 7/29/08. (ir) (Entered: 07/30/2008)
07/29/2008	<u>17</u>	NOTICE by United States of America <i>To Court Regarding Absence of Need for Evidentiary Hearing</i> (Lee, Dexter) (Entered: 07/29/2008)
07/28/2008	<u>16</u>	MOTION for Limited Appearance, Consent to Designation and Request to Electronically Receive Notices of Electronic Filing for Paul G. Cassell, Filing Fee \$75, Receipt #724532. (cw) (Entered: 07/28/2008)
07/17/2008	<u>15</u>	TRANSCRIPT of Hearing held on 7/11/2008 before Judge Kenneth A. Marra. Court Reporter: Victoria Aiello- phone number [REDACTED] 32 pages. (abd) (Entered: 07/18/2008)
07/11/2008	<u>11</u>	ORDER Denying Motion to Seal re 7 Sealed Document, 6 Sealed Document, 8 Sealed Document. Signed by Judge Kenneth A. Marra on 7/11/2008. (ls) (Additional attachment(s) added on 7/15/2008: # <u>1</u> docket sheet) (bs). (Entered: 07/14/2008)
07/11/2008	<u>10</u>	Minute Entry for proceedings held before Judge Kenneth A. Marra: Miscellaneous Hearing held on 7/11/2008. Court will issue order to unseal pleadings. Court Reporter: Official Reporting Service- phone number [REDACTED] (ir) (Entered: 07/11/2008)
07/11/2008	<u>9</u>	REPLY to Response (under seal) re <u>1</u> Complaint/Emergency Petition, and Objection to Government's Motion for Sealing of Pleadings filed by Jane Doe. (ls) (Entered: 07/11/2008)
07/10/2008	<u>5</u>	ORDER SETTING HEARING: Petitioner's Emergency Petition for Enforcement of Crime Victim's Rights Act set for 7/11/2008 10:15 AM in West Palm Beach Division before Judge Kenneth A. Marra. Signed by Judge Kenneth A. Marra on 7/10/08. (ir) (Entered: 07/10/2008)
07/09/2008	<u>14</u>	UNSEALED DECLARATION signed by : A. Marie Villafana. re <u>13</u> Response to Victim's Emergency Petition by United States of America. (previously filed as 8 sealed document) (bs) (Entered: 07/15/2008)
07/09/2008	<u>13</u>	UNSEALED RESPONSE to <u>1</u> Emergency Petition for Enforcement of Crime Victim Rights Act filed by United States of America. (previously filed as 7 sealed document) (bs) (Entered: 07/15/2008)
07/09/2008	<u>12</u>	UNSEALED MOTION to Seal Response to Victim's Emergency Petition by United States of America. (previously filed as 6 sealed document) (bs) (Entered: 07/15/2008)
07/09/2008	<u>8</u>	Sealed Document. (rb) UNSEALED see DE <u>14</u> . Modified on 7/15/2008 (bs). (Entered: 07/10/2008)
07/09/2008	<u>7</u>	Sealed Document. (rb) UNSEALED see DE <u>13</u> . Modified on 7/15/2008 (bs). (Entered: 07/10/2008)
07/09/2008	<u>6</u>	Sealed Document. (rb) UNSEALED see DE <u>12</u> . Modified on 7/15/2008 (bs).

		(Entered: 07/10/2008)
07/09/2008	<u>4</u>	NOTICE of Attorney Appearance by Dexter Lee on behalf of United States of America (Lee, Dexter) (Entered: 07/09/2008)
07/07/2008	<u>3</u>	ORDER requiring U.S. Attorney to respond to <u>1</u> Complaint filed by Jane Doe by 5:00 p.m. on 7/9/08. Signed by Judge Kenneth A. Marra on 7/7/08. (ir) (Entered: 07/07/2008)
07/07/2008	<u>2</u>	CERTIFICATE OF EMERGENCY by Jane Doe re <u>1</u> Complaint (rb) (Entered: 07/07/2008)
07/07/2008	<u>1</u>	EMERGENCY PETITION for Victim's Enforcement of Crime Victim's Rights Act 18 USC 3771 against United States of America Filing fee \$ 350. Receipt#: 724403, filed by Jane Doe.(rb) (Entered: 07/07/2008)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES

JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF
THE CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON
APPROPRIATE REMEDIES

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to move for a finding from this Court that the victims' rights under the Crime Victims Rights Act (CVRA), 18 U.S.C. § 3771, have been violated by the U.S. Attorney's Office, and to request a hearing on the appropriate remedies for these violations.

The victims have proffered a series of facts to the Government, which they have failed to contest. Proceeding on the basis of these facts,¹ it is clear that the U.S. Attorney's Office has repeatedly violated the victims' protected CVRA rights, including their right to confer with prosecutors generally about the case and specifically about a non-prosecution agreement the Office signed with the defendant, as well as their right to fair treatment. *See* 18 U.S.C. 3771(a)(5) & (8).

It is now beyond dispute, for example, that in September 2007, the U.S. Attorney's Office formally signed a non-prosecution agreement with Jeffrey Epstein that barred his

¹ The victims are contemporaneously filing a motion to have their facts accepted by the Court.

prosecution for numerous federal sex offenses he committed against the victims (as well as against many other minor girls). Rather than confer with the victims about this non-prosecution agreement, however, the U.S. Attorney's Office and Jeffrey Epstein agreed to a "confidentiality" provision in the agreement barring its disclosure to anyone – including the victims. For the next nine months, as Epstein was well aware, the U.S. Attorney's Office assiduously concealed from the victims the existence of this signed non-prosecution agreement. Indeed, the Office went so far as to send (in January 2008) a false victim notification letter to the victims informing them that the "case is currently under investigation." In fact, the U.S. Attorney's Office had already resolved the case three months earlier by signing the non-prosecution agreement. Again on May 30, 2008, the U.S. Attorney's Office sent yet another victim notification letter to a recognized victim informing her that the "case is currently under investigation" and that it "can be a lengthy process and we request your continued patience while we conduct a thorough investigation." Then in June 2008, on the eve of consummating Epstein's state guilty plea that was part of the non-prosecution agreement, the U.S. Attorney's Office asked legal counsel for the victims to send a letter expressing the victims' views on why federal charges should be filed – not disclosing to the victims' legal counsel that this was a pointless exercise because the non-prosecution agreement had already been signed some nine months earlier.

These actions and many more like them constitute clear violations of Jane Doe #1 and Jane Doe #2's rights under the Crime Victims Rights Act, including the right to confer with prosecutors and the right to fair treatment. The only argument that the U.S. Attorney's Office advances is that the CVRA does not apply because no indictment was formally filed in this case. But this position is inconsistent with both the CVRA's plain language, *see, e.g.*, 18 U.S.C. §

3771(c)(1) (Justice Department agencies involved in the "detection" and "investigation" of federal crimes covered by CVRA), and with persuasive case law, *see, e.g., In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008) (victims should have been notified before pre-indictment plea reached). Moreover, the U.S. Attorney's Office itself was fully aware of its obligations to notify the victims in this case, as e-mails from the Office and other evidence make perfectly clear. The only reason that the Office concealed the existence of the non-prosecution agreement from the victims was not to comply with some legal restriction, but rather to avoid a firestorm of public controversy that would have erupted if the sweetheart plea deal with a politically-connected billionaire had been revealed.

The Court should accordingly find that the U.S. Attorney's Office – in coordination with Jeffrey Epstein -- has violated the Act and set a briefing schedule and hearing on the proper remedy for those violations.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Jane Doe #1 and Jane Doe #2 offer the following statement of undisputed material facts. If the Government disputes any of these facts, the victims request an evidentiary hearing to prove each and every one of them:²

1. Between about 2001 and 2007, defendant Jeffrey Epstein (a billionaire with significant political connections) sexually abused more than 30 minor girls at his mansion in West Palm

² The Court should accept all these facts as true for reasons the victims explain in their contemporaneously-filed Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of The Facts. The Court should also direct the Government to produce all evidence that it possesses supporting these facts, for reasons the victims explain in their contemporaneously-filed Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence.

Beach, Florida, and elsewhere. Among the girls he sexually abused were Jane Doe #1 and Jane Doe #2. Epstein performed repeated lewd, lascivious, and sexual acts on them, including (but not limited to) masturbation, touching of their sexual organs, using vibrators or sexual toys on them, coercing them into sexual acts, and digitally penetrating them. Because Epstein used a means of interstate commerce and knowingly traveled in interstate commerce to engage in abuse of Jane Doe #1 and Jane Doe #2 (and the other victims), he committed violations of federal law, including repeated violations of 18 U.S.C. § 2422. *See, e.g.*, Complaint, E.W. v. Epstein, Case No. 50 2008 CA 028058 XXXXMB AB (15th Cir. Palm Beach County, Florida); Complaint, L.M. v. Epstein, Case No 50 2008 CA 028051 XXXXMB AB (15th Cir. Palm Beach Count, Florida).

2. Jeffrey Epstein flew at least one underage girl on his private jet for the purpose of forcing her to have sex with him and others. Epstein forced this underage girl to be sexually exploited by his adult male peers, including royalty, politicians, businessmen, and professional and personal acquaintances. Complaint, Jane Doe No. 102 v. Epstein, No. 9:09-CV-80656-KAM (S.D. Fla. May 1, 2009).

3. In 2006, at the request of the Palm Beach Police Department, the Federal Bureau of Investigation opened an investigation into allegations that Jeffrey Epstein and his personal assistants had used facilities of interstate commerce to induce young girls between the ages of thirteen and seventeen to engage in prostitution, among other offenses. The case was presented to the United States Attorney's Office for the Southern District of Florida, which accepted the case for investigation. The Palm Beach County State Attorney's Office was also investigating

the case. *See generally* U.S. Attorney's Correspondence, Exhibit "A" to this filing (hereinafter cited as "U.S. Attorney's Correspondence" and referenced by Bates page number stamp).

4. The FBI soon determined that both Jane Doe #1 and Jane Doe #2 were victims of sexual assaults by Epstein while they were minors beginning when they were approximately fourteen years of age and approximately thirteen years of age respectively. Jane Doe #1, for example, provided detailed information about her abuse (and the abuse of Jane Doe #2) to the FBI on August 7, 2007. Exhibit "B."

5. More generally, the FBI through diligent investigation established that Epstein operated a large criminal enterprise that used paid employees and underlings to repeatedly find and bring minor girls to him. Epstein worked in concert as part of the enterprise with others, including Ghislane Maxwell and Jean Luc Brunel, to obtain minor girls not only for his own sexual gratification, but also for the sexual gratification of others. The FBI determined that Epstein had committed dozens and dozens of federal sex crimes against dozens of minor girls between 2001 and 2007. They presented information to the U.S. Attorney's Office for criminal prosecution. *See* Exhibit "B"; U.S. Attorney's Correspondence at 47-55.

6. On about June 7, 2007, FBI agents hand-delivered to Jane Doe #1 a standard CVRA victim notification letter. The notification promised that the Justice Department would make its "best efforts" to protect Jane Doe #1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea" The notification further explained that "[a]t this time, your case is under investigation." That notification meant that the FBI had identified Jane Doe #1 as a victim of a federal offense and as someone protected by the CVRA. Jane Doe #1

relied on these representations and believed that the Justice Department would protect these rights and keep her informed about the progress of her case. *See* Exhibit "C."

7. On about August 11, 2007, Jane Doe #2 received a standard CVRA victim notification letter. The notification promised that the Justice Department would make its "best efforts" to protect Jane Doe #2's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . ." The notification further explained that "[a]t this time, your case is under investigation." That notification meant that the FBI had identified Jane Doe #2 as a victim of a federal offense and as someone protected by the CVRA. Jane Doe #2 relied on these representations and believed that the Justice Department would protect these rights and keep her informed about the progress of her case. *See* Exhibit "D."

8. Early in the investigation, the FBI agents and an Assistant U.S. Attorney had several meetings with Jane Doe #1. Jane Doe #2 was represented by counsel that was paid for by the criminal target Epstein and, accordingly, all contact was made through that attorney.

9. In and around September 2007, plea discussions took place between Jeffrey Epstein, represented by numerous attorneys (including lead criminal defense counsel Jay Lefkowitz), and the U.S. Attorney's Office for the Southern District of Florida, represented by Assistant U.S. Attorney A. Marie Villafañá and others. The plea discussions generally began from the premise that Epstein would plead guilty to at least one federal felony offense surrounding his sexual assaults of more than 30 minor girls. From there, the numerous defense attorneys progressively negotiated more favorable terms so that Epstein would ultimately plead to only two state court

felony offenses and would serve only county jail time. Many of the negotiations are reflected in e-mails between Lefkowitz and the U.S. Attorney's Office. *See generally* Exhibit "A."

10. [REDACTED]

[REDACTED] The evidence supporting these charges was overwhelming, including the interlocking consistent testimony of several dozen minor girls, all made automatically admissible in a federal criminal sexual assault prosecution by operation of Fed. R. Evid. 414. U.S. Attorney's Correspondence at 4.

11. [REDACTED]

12. The correspondence also shows that the U.S. Attorney's Office was interested in finding a place to conclude a plea bargain that would effectively keep the victims from learning what was happening through the press. The Office wrote in an e-mail to defense counsel: "[REDACTED]

[REDACTED] The

U.S. Attorney's Office was aware that most of the victims of Epstein, including Jane Doe #1 and Jane Doe #2, resided well outside the Miami area in the West Palm Beach area. The Office was also aware that the chances of press coverage of a case filed in Miami would be significantly less likely to reach the Palm Beach area. U.S. Attorney's Correspondence at 29.

13. On about September 24, 2007, the U.S. Attorney's Office sent an e-mail to Jay Lefkowitz, criminal defense counsel for Epstein, regarding the agreement. The e-mail stated that the Government and Epstein's counsel [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

U.S. Attorney's Correspondence at 153 (emphases added).

14. On about September 25, 2007, the U.S. Attorney's Office sent an e-mail to Lefkowitz stating: [REDACTED]

[REDACTED] U.S. Attorney's Correspondence at 156.

15. On about September 26, 2007, the U.S. Attorney's Office sent an e-mail to Lefkowitz in which she stated: [REDACTED]

[REDACTED]

procurement of minors for prostitution. The NPA also set up a procedure whereby a victim of Epstein's sexual abuse could obtain an attorney to proceed with a civil claim against Epstein, provided that the victim agreed to limit damages sought from Epstein. To obtain an attorney paid for by Epstein, the victim would have to agree to proceed exclusively under 18 U.S.C. § 2255 (i.e., under a law that provided presumed damages of \$150,000 against Epstein – an amount that Epstein argued later was limited to \$50,000). The agreement was signed by Epstein and his legal counsel, as well as the U.S. Attorney's Office, on about September 24, 2007. Non-Prosecution Agreement, Exhibit "E."

18. Epstein insisted on, and the U.S. Attorney's Office agreed to, a provision in the non-prosecution agreement that made the agreement secret. In particular, the agreement stated: "The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making the disclosure." By entering into such a confidentiality agreement, the U.S. Attorney's Office put itself in a position that conferring with the crime victims (including Jane Doe #1 and Jane Doe #2) about the non-prosecution agreement would violate terms of the agreement – specifically the confidentiality provision. Indeed, even notifying the victims about the agreement would presumably have violated the provision. Accordingly, from September 24, 2007 through at least June 2008 – a period of more than nine months -- the U.S. Attorney's Office did not notify any of the victims of the existence of the non-prosecution agreement. Epstein was well aware of this failure to notify the victims and, indeed, arranged for this failure to notify the victims. *Id.*; U.S.

Attorney's Correspondence at 270; Transcript of Hearing in this case on July 11, 2008, at 4-6, 18-19, 22-23, 28-29 (hereinafter cited as "Tr. July 11, 2008").

19. A reasonable inference from the evidence is that the U.S. Attorney's Office – pushed by Epstein – wanted the non-prosecution agreement kept from public view because of the intense public criticism that would have resulted from allowing a politically-connected billionaire who had sexually abused more than 30 minor girls to escape from federal prosecution with only a county court jail sentence. Another reasonable inference is that the Office wanted the agreement concealed at this time because of the possibility that the victims could have objected to the agreement in court and perhaps convinced the judge reviewing the agreement not to accept it.

20. The Non-Prosecution Agreement that had been entered into between the U.S. Attorney's Office and Epstein was subsequently modified by an October 2007 Addendum and a December 19, 2007, letter from the U.S. Attorney to Attorney Lilly Ann Sanchez. The U.S. Attorney's Office did not confer with any of the victims about these modifications of the agreement (or even notify them of the existence of these modifications) through at least June 2008 – a period of more than six months. *See* Supplemental Declaration of A. Marie Villafafia (doc. #35, at 1); U.S. Attorney's Correspondence at 234-37; Tr. July 11, 2008, 18-19, 22-23, 28-29.³

21. In October 2007, shortly after the initial plea agreement was signed, FBI agents contacted Jane Doe #1. On October 26, 2007, Special Agents E. Nesbitt Kuyrkendall and Jason Richards met in person with Jane Doe #1. The Special Agents explained that Epstein would

³ On about August 14, 2008, Epstein's defense counsel told the U.S. Attorney's Office that they did not consider the December 19, 2007, letter to be operative.

plead guilty to state charges involving another victim, he would be required to register as a sex offender for life, and he had made certain concessions related to the payment of damages to the victims, including Jane Doe #1. During this meeting, the Special Agents did not explain that an agreement had already been signed that precluded any prosecution of Epstein for federal charges against Jane Doe #1. The agents could not have revealed this part of the non-prosecution agreement without violating the terms of the non-prosecution agreement. Whether the agents themselves had been informed of the existence of the non-prosecution agreement by the U.S. Attorney's Office is not certain. Because the plea agreement had already been reached with Epstein, the agents made no attempt to secure Jane Doe #1's view on the proposed resolution of the case. Exhibit "E," Tr. July 11, 2008 at 4-6, 18-19, 22-23.

22. Jane Doe #1's (quite reasonable) understanding of the Special Agent's explanation was that only the State part of the Epstein investigation had been resolved, and that the federal investigation would continue, possibly leading to a federal prosecution. Jane Doe #1 also understood her own case was move forward towards possible prosecution. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

23. On about November 27, 2007, Assistant U.S. Attorney Jeff Sloman sent an e-mail to Jay Lefkowitz, defense counsel for Epstein. The e-mail stated that the U.S. Attorney's Office had an obligation to notify the victims [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

U.S. Attorney's Correspondence at 255 (emphasis rearranged).

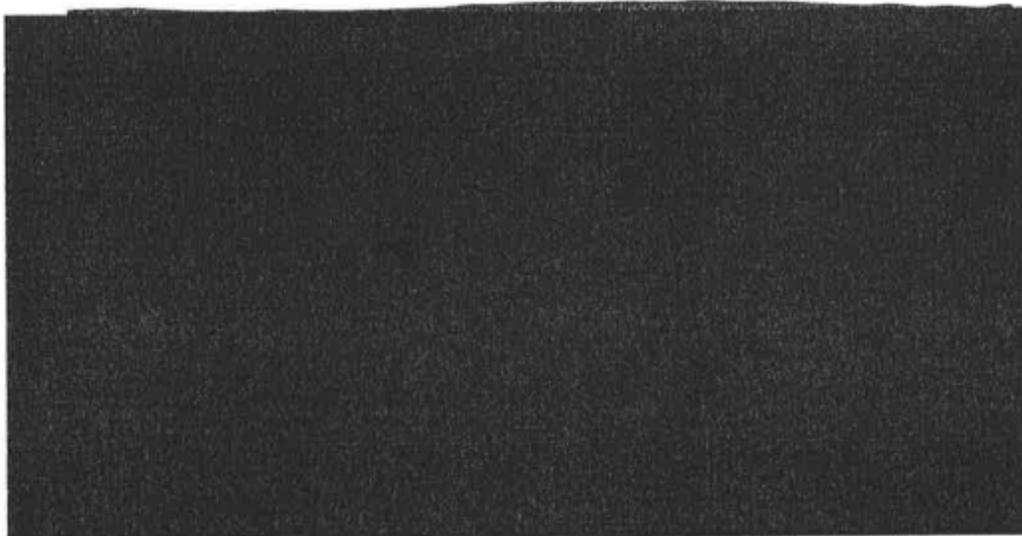
24. On about November 29, 2007, the U.S. Attorney's Office sent a draft of a crime victim notification letter to Jay Lefkowitz, defense counsel for Jeffrey Epstein. The notification letter would have explained: [REDACTED]

[REDACTED] The letter then would have gone on to explain that Epstein would [REDACTED]. The letter would not have explained that, as part of the agreement with Epstein, the Justice Department had previously agreed not to prosecute Epstein for any of the numerous federal offenses that had been committed. U.S. Attorney's Correspondence at 256-59.

25. Because of concerns from Epstein's attorneys, the U.S. Attorney's Office never sent the proposed victim notification letter discussed in the previous paragraph to the victims. Instead, a misleading letter stating that the case was "currently under investigation" (described below) was sent in January 2008 and May 2008. At no time before reaching the non-prosecution agreement did the Justice Department notify any victims, including for example Jane Doe #1, about the non-prosecution agreement. The victims were therefore prevented from exercising their CVRA right to confer with prosecutors about the case and about the agreement. Epstein

was aware of these violations of the CVRA and, indeed, pressured the U.S. Attorney's Office to commit these violations. Tr. July 11, 2008, at 9.

26. On about December 6, 2007, Jeffrey H. Sloman, First Assistant U.S. Attorney sent a letter to Jay Lefkowitz, noting the U.S. Attorney's Office's legal obligations to keep victims informed of the [REDACTED] The letter stated:



U.S. Attorney's Correspondence at 191-92 (emphasis added).

27. Despite this recognition of its obligation to keep victims [REDACTED] about the non-prosecution agreement, the U.S. Attorney's Office did not follow through and inform the victims of the non-prosecution agreement. To the contrary, as discussed below, it continued to tell the victims that the case was "under investigation." Tr. July 11, 2008, at 4-5, 18-19, 22-29.

28. On December 13, 2007, the U.S. Attorney's Office sent a letter to Jay Lefkowitz, defense counsel for Epstein, rebutting allegations that had apparently been made against the

AUSA handling the case by the Epstein defense team. (The Justice Department concluded the allegations were meritless.) The letter stated that a federal indictment against Epstein [REDACTED]

[REDACTED]

[REDACTED] The letter also recounted

that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] U.S. Attorney's Correspondence at 269.

29. The December 13, 2007, letter also reveals that the Justice Department stopped making victim notifications because of [REDACTED]

[REDACTED]

[REDACTED] U.S. Attorney's Correspondence at 270 (emphasis added). It was a deviation from the Justice Department's standard practice to negotiate with defense counsel about the extent of crime victim notifications.

30. The December 13, 2007, letter also demonstrates that the Justice Department was well aware of who the victims of Epstein's sexual offenses were. The Justice Department was prepared to make notifications to the victims, but suspended those notifications only because objections from defense counsel. *Id.*

31. The December 13, 2007, letter reveals it would have been possible to confer with the victims about the Non-Prosecution Agreement. The U.S. Attorney's Office was fully able to

confer with Epstein's counsel about the parameters of the Non-Prosecution Agreement, but refused to confer with Epstein's victims about the Agreement. *Id.*

32. Following the signing of the Agreement and the modifications thereto, Epstein's performance was delayed while he sought higher level review within the Department of Justice. *See U.S. Attorney's Correspondence passim.* A reasonable inference from the evidence is that Epstein used his significant political and social connections to lobby the Justice Department to avoid significant federal prosecution. The Justice Department has in its possession internal documents (i.e., phone logs, emails, etc.) that would reveal the event of those lobbying efforts. The Justice Department, however, has refused to make these materials available to the victims.

33. On January 10, 2008, Jane Doe #1 and Jane Doe #2 received letters from the FBI advising them that "[t]his case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation." Exhibits "F" & "G." The statement in the notification letter was misleading and, in fact, false. The case was not currently "under investigation." To the contrary, the federal cases involving Jane Doe #1 and Jane Doe #2 had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Moreover, the FBI did not notify Jane Doe #1 or Jane Doe #2 that a plea agreement had been reached previously, and that part of the agreement was a non-prosecution agreement with the U.S. Attorney's Office for the Southern District of Florida. Exhibit "E." Whether the FBI was aware of this fact at this time is unclear. In any event, the FBI was acting at the direction of the U.S. Attorney's Office, which clearly did not confer with Jane Doe #1 and Jane Doe #2 about the case and, by concealing the true state of affairs, and failed to treat Jane Doe #1 and Jane Doe #2 with fairness. Epstein was aware of

these actions of the U.S. Attorney's Office and, indeed, solicited these actions of the U.S. Attorney's Office. U.S. Attorney's Correspondence at 191-92, 270.

34. Jane Doe #1 and Jane Doe #2 relied on the representations of the U.S. Attorney's Office to their detriment. Had they known the true facts of the case – i.e., that Epstein had negotiated a non-prosecution agreement – they would have taken steps to object to that agreement. Tr. July 11, 2008 at 4-6, 18-19, 28-29.

35. Undersigned counsel believes that the FBI was lead to believe that their investigation of Epstein was going to lead to a federal criminal prosecution and that the FBI was also misled by the U.S. Attorney's office about the status of the case.

36. In early 2008, Jane Doe #1 and Jane Doe #2 believed that criminal prosecution of Epstein was extremely important. They also desired to be consulted by the FBI and/or other representatives of the federal government about the prosecution of Epstein. In light of the letters that they had received around January 10, they believed that a criminal investigation of Epstein was on-going – including investigation into Epstein's crimes against them -- and that they would be contacted before the federal government reached any final resolution of that investigation. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

37. On January 31, 2008, Jane Doe #1 met with FBI Agents and AUSA's from the U.S. Attorney's Office. She provided additional details of Epstein's sexual abuse of her. The AUSA's did not disclose to Jane Doe #1 at this meeting (or any other meeting) that they had already negotiated a non-prosecution agreement with Epstein. Exhibit "H."

38. On about February 25, 2008, Assistant U.S. Attorney Sloman sent an e-mail to Jay Lefkowitz, Epstein's criminal defense counsel, explaining that the Justice Department's Child

Exploitation Obscenity Section (CEOS) had agreed to review Epstein's objections to the proposed plea agreement that had been reached with the U.S. Attorney's Office for the Southern District of Florida. The letter indicated that, should CEOS reject Epstein's objections to the agreement, then [REDACTED]

[REDACTED] U.S. Attorneys Correspondence at 290-91.

39. On May 30, 2008, another of Mr. Edwards's clients who was recognized as an Epstein victim by the U.S. Attorney's Office, received a letter from the FBI advising her that "[t]his case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation." Exhibit "I." The statement in the notification letter was misleading and, in fact, false. The case was not currently "under investigation." To the contrary, the case had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Exhibit "E."

40. In mid-June 2008, Mr. Edwards contacted the AUSA handling the case to inform her that he represented Jane Doe #1 and, later, Jane Doe #2. Mr. Edwards asked to meet to provide information about the federal crimes committed by Epstein against these victims, hoping to secure a significant federal indictment against Epstein. The AUSA and Mr. Edwards discussed the possibility of federal charges being filed. At the end of the call, the AUSA asked Mr. Edwards to send any information that he wanted considered by the U.S. Attorney's Office in determining whether to file federal charges. Because of the confidentiality provision that existed in the plea agreement, Mr. Edwards was not informed that previously, in September 2007, the U.S. Attorney's Office had reached an agreement not to file federal charges. Mr. Edwards was

also not informed that resolution of the criminal matter was imminent. This concealment prevented Edwards from (among other things) exercising his client's CVRA right to confer with the prosecutors about the case. Epstein was aware of this concealment – and, indeed, sought this concealment. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

41. On Friday, June 27, 2008, at approximately 4:15 p.m., the U.S. Attorney's Office received a copy of Epstein's proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., on Monday, June 30, 2008. The U.S. Attorney's Office and the Palm Beach Police Department attempted to provide notification to victims in the short time that Epstein's counsel had provided. The U.S. Attorney's Office called attorney Edwards to provide notice to his clients regarding the hearing. The notice, however, was only that Epstein was pleading guilty to state solicitation of prostitution charges involving another victim. The U.S. Attorney's Office did not tell Edwards that the guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement. Thus, there was no reason for attorney Edwards to believe that the guilty pleas in state court had any bearing on the cases of Jane Doe #1 and Jane Doe #2. As a result, Jane Doe #1 and Jane Doe #2 did not attend the plea hearing, as they did not think that it was pertinent to their particular cases. Had they known that the plea agreement made it impossible to prosecute Epstein federally for his crimes against them, they would have objected to this resolution. Jane Doe #1 and Jane Doe #2 thus detrimentally relied on the inaccurate representations of the U.S. Attorney's Office that their cases were still under investigation. Tr. July 11, 2008 at 4-6, 18-19, 22-23.

42. On June 30, 2008, the U.S. Attorney's Office sent an e-mail to Jack Goldberger, criminal defense counsel for Epstein, reflecting continuing efforts to keep the NPA secret: [REDACTED]

[REDACTED]

[REDACTED] U.S. Attorney's Correspondence at 321.

43. On July 3, 2008, as requested, Mr. Edwards sent to the U.S. Attorney's Office a letter. In the letter, Mr. Edwards indicated his client's desire that federal charges be filed against defendant Epstein. In particular, he wrote on behalf of his clients: "We urge the Attorney General and our United States Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual predator." *See* Exhibit "J."

44. When Mr. Edwards wrote his July 3, 2008 letter, he was still unaware that a non-prosecution agreement had been reached with Epstein – a fact that continued to be concealed from him (and the victims) by the U.S. Attorney's Office. Mr. Edwards first saw a reference to the NPA on or after July 9, 2008, when the Government filed its responsive pleading to Jane Doe's emergency petition. That pleading was the first public mention of the non-prosecution agreement and the first disclosure to Mr. Edwards (and thus to Jane Doe #1 and Jane Doe #2) of the possible existence of a non-prosecution agreement. *Tr.* July 11, 2008 at 4-6, 18-19, 22-23, 28-29.

45. Mr. Edwards detrimentally relied on the misleading representations made by the U.S. Attorney's Office that the case was still under investigation when he was writing this letter. He would not have wasted his time undertaking a pointless exercise had he known that the U.S.

Attorney's Office had previously negotiated a non-prosecution agreement. *See* Exhibits "E" & "J."

46. On July 7, 2008, Jane Doe #1 filed a petition for enforcement of her rights under the CVRA. At the time, Jane Doe #1 was not aware of the non-prosecution agreement, so she sought a court order directing the Justice Department to confer with her before reaching any such agreement. Epstein quickly became aware of this petition. Doc. #1 at 1-2.

47. On July 9, 2008, the U.S. Attorney's Office sent a victim notification to Jane Doe #1 via her attorney, Bradley Edwards. That notification contains a written explanation of some of the terms of the agreement between Epstein and the U.S. Attorney's Office. A full copy of the terms was not provided. A notification was not provided to Jane Doe #2 because the agreement limited Epstein's liability to victims whom the United States was prepared to name in an indictment. As a result, Jane Doe #2 never received a notification letter about the agreement. The notification did not mention the non-prosecution agreement with the U.S. Attorney's Office. Exhibits "E" & "K."

48. The notification that the U.S. Attorney's Office sent to Jane Doe #1 and other victims contained false and inaccurate information about the terms of the non-prosecution agreement. The false information was specifically approved by Epstein's attorneys. Supplemental Declaration of A. Marie Villafana, Dec. 22, 2008, doc. #35 at 2-3.

49. On July 11, 2008, the Court held a hearing on Jane Doe #1 and Jane Doe #2's Emergency Petition for Enforcement of Rights. During the hearing, the Government conceded that Jane Doe #1 and Jane Doe #2 were "victims" within the meaning of the Crime Victim's

Rights Act. Epstein was aware of these and subsequent proceedings involving the CVRA. Tr. July 11, 2008, at 14-15.

50. During the July 11, 2008 hearing, the Government conceded that its agreement had been concluded months before the victims were notified about it. *See id.* at 12 (“ . . . the agreement was consummated by the parties in December of 2007.”).

51. At all times material to this statement of facts, it would have been practical and feasible for the federal government to inform Jane Doe #1 and Jane Doe #2 of the details of the proposed non-prosecution agreement with Epstein, including in particular the fact that the agreement barred any federal criminal prosecution. *See* U.S. Attorney’s Correspondence at 191-92.

52. One of the senior prosecutors in the U.S. Attorney’s Office joined Epstein’s payroll shortly after important decisions were made limiting Epstein’s criminal liability – and improperly represented people close to Epstein. During the federal investigation of Epstein, Bruce Reinhart was a senior Assistant U.S. Attorney in the U.S. Attorney’s Office for the Southern District of Florida. Within months after the non-prosecution agreement was signed, Reinhart left the Office and immediately went into private practice as a “white collar” criminal defense attorney. His office coincidentally happened to be not only in the same building (and on the same floor) as Epstein’s lead criminal defense counsel, Jack Goldberger, but it was actually located right next door to the Florida Science Foundation – an Epstein-owned and -run company where Epstein spent his “work release.” *See* <http://www.brucereinhartlaw.com>.

53. While working in this Office adjacent to Epstein’s, Reinhart undertook the representation of numerous Epstein employees and pilots during the civil cases filed against

Epstein by the victims – cases that involved the exact same crimes and same evidence being reviewed by the U.S. Attorney's office when he was employed there. Specifically, he represented [REDACTED] (Epstein's number one co-conspirator who was actually named as such in the NPA), his housekeeper (Louella Ruboyo), his pilots Larry Morrison, Larry Visoski, David Rogers, William Hammond and Robert Roxburgh. (Hammond and Roxburgh were not deposed, but the others were.) *See* depositions of these individuals in various Epstein civil cases. On information and belief, Reinhart's representation of these individuals was paid, directly or indirectly, by Epstein. Such representations are in contravention of Justice Department regulations and Florida bar rules. Such representations also give, at least, the improper appearance that Reinhart may have attempted to curry with Epstein and then reap his reward through favorable employment.

LEGAL MEMORANDUM

The victims have previously briefed the issues of why they are entitled to entry of an order by this Court finding that the U.S. Attorney's Office violated their rights under the CVRA. *See* doc. #1; doc #9 at 3-11; doc. #19 at 3-9, 14. The victims specifically incorporate those pleadings by reference here. In short, as explained in the victims' earlier pleadings, the Office violated the victims' right to confer before reaching the non-prosecution agreement and also failed to use its best efforts to comply with the CVRA. The victims now provide additional briefing on two issues: (1) the CVRA applies to Jane Doe #1 and Jane Doe #2 even though no indictment was filed in their case; and (2) the Court should find that the government has clearly violated the CVRA in this case and set up a briefing schedule and hearing on the appropriate remedy.

I. THE CVRA PROTECTS JANE DOE #1 AND JANE DOE #2 EVEN THOUGH THIS CASE WAS RESOLVED BY A NON-PROSECUTION AGREEMENT RATHER THAN INDICTMENT.

In this litigation, the Government is apparently taking the position that the Crime Victims' Rights Act does not extend rights to Jane Doe #1 and Jane Doe #2 because no indictment was ever filed in federal court and thus no federal court proceedings were ever held. This crabbed litigation position about the breadth of the CVRA cannot be sustained. Indeed, neither the FBI nor the U.S. Attorney's Office itself took this position during the Epstein investigation – until the victims in this case filed their petition requesting enforcement of their rights. Instead, both the FBI and the U.S. Attorney's Office recognized that because the U.S. Attorney's Office was negotiating a non-prosecution agreement that affected the rights of specifically identified victims, the CVRA was applicable. The Court should reject the Government's newly-contrived position.

A. The Plain Language of the CVRA Makes Clear that Victims Have Rights Before an Indictment is Filed.

The CVRA promises crime victims that they will have various rights, including “[t]he reasonable right to confer with the attorney for the Government *in the case*,” 18 U.S.C. § 3771(a)(5) (emphasis added), and “the right to be treated with fairness,” 18 U.S.C. § 3771(a)(8). In earlier pleadings filed in this action, the Government has tried to narrowly construe the CVRA so that it applies only to a “court proceeding.” See Gov't Response to Victim's Emergency Petition (doc. #13) at 1-2.

The Government's position contravenes the plain language of the CVRA. The CVRA guarantees to Jane Doe #1 and Jane Doe #2 the right to confer with prosecutors “in the case,”

not in a “court proceeding.” And the CVRA broadly extends a right to them “to be treated with fairness” – a right that is not circumscribed to just court proceedings. Indeed, the fact that (as the Government notes) the drafters of the CVRA used the term “court proceeding” elsewhere in the statute (i.e., 18 U.S.C. § 3771(a)(2) (victim’s right to notice “of any public court proceeding”)) makes it obvious that they intended to give victims a right to confer that extended beyond simple court proceedings – that is, the right to confer about “the case” – as well as a broad right to be treated fairly throughout the process.

Moreover, it is patently obvious that a criminal “case” against Epstein had been going on for months before the victims learned about the non-prosecution agreement. As recounted in the statement of facts above, both the FBI and the U.S. Attorney’s Office for the Southern District of Florida had opened a “case” involving Epstein’s sexual abuse of the victims well before they entered into plea negotiations with Epstein. Indeed, as early as June 7, 2007 – more than three months before they concluded the NPA with Epstein – the U.S. Attorney’s Office sent a notice to Jane Doe #1 stating “your case is under investigation.” See Exhibit “C” (emphasis added). The notice went on to tell Jane Doe #1 that “as a victim and/or witness of a federal offense, you have a number of rights.” *Id.* at 1. Among the rights that the U.S. Attorney’s Office itself told Jane Doe that she possessed was “[t]he right to confer with the attorney for the United States in the case.” Of course, she would not have had those rights if she was not covered by the CVRA. Interestingly, the letter also advised Jane Doe #1 that “if you believe that the rights set forth above [e.g., the right to confer and other CVRA rights] are being violated, you have the right to petition the Court for relief.” *Id.* at 1.

The plain language of the CVRA makes clear that crime victims have right even before the filing of any indictment. The CVRA's instructs that crime victims who seeks to assert rights in pre-indictment situations should proceed in the court where the crime was committed: "The rights described in subsection (a) [of the CVRA] shall be asserted in the district in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred." 18 U.S.C. § 3771(d)(3) (emphasis added). The victims have relied on this language through their pleadings, but the Government has not offered any response.

The CVRA also directs that "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the *detection, investigation*, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]." 18 U.S.C. § 3771(c)(1) (emphasis added). Of course, there would be no reason to direct that agencies involved in the "detection" and "investigation" of crime have CVRA obligations if the Government's construction of the Act were correct. Plainly, Congress envisioned the victims' rights law applying during the "detection" and "investigation" phases of criminal cases.

For all these reasons, the Court need look no further than the language of the CVRA to conclude that the victims in this case had protected rights under the Act.

B. Other Courts Have Recognized That Crime Victims Have Rights Before An Indictment is Filed.

In its briefing to date, the Government has yet to cite a single case that has accepted its sweeping position that the CVRA only extends rights to victims after the formal filing of an

indictment. This is because the case law all cuts the opposite way and recognizes that the CVRA does protect victims during the investigation of federal criminal cases.

In a case remarkably similar to this one, the Fifth Circuit has held that victims have a right to confer with federal prosecutors even before any charges are filed. In *In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008), a wealthy corporate defendant reached a generous plea deal with the Government – a deal that the Government concluded and filed for approval with the district court without conferring with the victims. When challenged on a mandamus petition by the victims, the Fifth Circuit held:

The district court acknowledged that “[t]here are clearly rights under the CVRA that apply before any prosecution is underway.” *BP Prods.*, 2008 WL 501321 at *11, 2008 U.S. Dist. LEXIS 12893, at *36. Logically, this includes the CVRA’s establishment of victims’ “reasonable right to confer with the attorney for the Government.” 18 U.S.C. § 3771(a)(5). At least in the posture of this case (and we do not speculate on the applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims’ views on the possible details of a plea bargain.

Id.

As we understand the Government’s attempt to distinguish *Dean*, it asks this Court to decline to follow the Fifth Circuit’s holding and create a split of authority on this important issue. See Gov’t Response to Emergency Petn. at 2-3. Instead, the Government would have this Court deviate from the Fifth Circuit’s well-reasoned opinion because the Circuit’s “discussion of the scope of the right to confer was unnecessary because the court ultimately declined to issue mandamus relief.” Gov’t Response at 2 (citing *Dean*, 527 F.3d at 395). This is simply untrue. The Fifth Circuit faced a petition for mandamus relief from the victims in that case, asking the

Court to reject a proposed “binding” plea agreement negotiated under Fed. R. Crim. P. 11(c)(1)(C) (i.e., a plea agreement obligating the judge to impose a specific sentence). The victims asked for that relief because of the Government’s failure to confer with them before the charges and accompanying plea agreement were filed. The Fifth Circuit held that the victims’ rights had been violated in the passages quoted above. It then went on to remand the matter to district court for further consideration of the effect of the violations of the victims’ rights:

We are confident, however, that the conscientious district court will fully consider the victims’ objections and concerns in deciding whether the plea agreement should be accepted.

The decision whether to grant mandamus is largely prudential. We conclude that the better course is to deny relief, confident that the district court will take heed that the victims have not been accorded their full rights under the CVRA and will carefully consider their objections and briefs as this matter proceeds.

In re Dean, 527 F.3d at 396. Obviously, the Fifth Circuit could not have instructed the District Court to “take heed” of the violations of victims’ rights unless it has specifically held, as a matter of law, that the victims’ rights had been violated.

The Government’s next effort to deflect the force of the Fifth Circuit’s decision is that the Circuit did not directly quote three words found in the CVRA’s right to confer – the words “in the case.” See Gov’t Response to Emergency Petn. at 2. But the Fifth Circuit had received briefs totaling close to 100 pages in that case and was obviously well aware of the statute at hand. Indeed, in the very paragraph the Government claims is troublesome, the Fifth Circuit cited to the district court opinion under review, which had quoted all the words in the statute. See *United States v. BP Products*, 2008 WL 501321 at *7 (noting victims right to confer “in the case”), cited in *In re Dean*, 527 F.3d at 394.

The Government finally notes that the Fifth Circuit stated that its ruling about the Government violating the right to confer applied "in the posture of this case." *In re Dean*, 527 F.3d at 394. But the posture of the case involving Epstein here – at least in its relevant aspects -- is virtually identical to the posture there. The Fifth Circuit held that the Government had an obligation to confer with the victims *before charges were filed and before a final plea arrangement was reached*. Without giving the victims a chance to confer before hand, the plea agreement might be fatally flawed because it did not consider the concerns of the victims. Thus, the Fifth Circuit emphasized the need to confer with victims before any disposition was finally decided: "The victims do have reason to believe that their impact on the eventual sentence is substantially less where, as here, their input is received after the parties have reached a tentative deal. As we have explained, that is why we conclude that these victims should have been heard at an earlier stage." *Id.* at 395. The posture in this case is exactly the same – the Government should have conferred before the parties "reached a tentative deal." The fact that the deal reached here is slightly different than the deal reached in the *Dean* case (a non-prosecution agreement versus a plea agreement) is truly a distinction without a difference. If anything, the facts here cry out for conferral even more than in that case. At least the defendant there agreed to plead guilty to a federal felony. Here, the wealthy defendant has escaped all federal punishment – a plea deal that Jane Doe #1 and Jane Doe #2 would have strenuously objected to . . . if the Government had given them the chance.

The Fifth Circuit's decision in *Dean* has been cited favorably in two recent District Court decisions, which provides further support for Petitioner's position here. In *United States v. Rubin*, 2008 WL 2358591 (E.D.N.Y. 2008), the victims argued for extremely broad rights under

the CVRA. After citing *Dean*, the District Court agreed that the rights were expansive and could apply before indictment, but subject to the outer limit that the Government be at least “contemplating” charges:

Quite understandably, movants perceive their victimization as having begun long before the government got around to filing the superseding indictment. They also believe their rights under the CVRA ripened at the moment of actual victimization, or at least at the point when they first contacted the government. Movants rely on a decision from the Southern District of Texas for the notion that CVRA rights apply prior to any prosecution. In *United States v. BP Products North America, Inc.*, the district court reasoned that because § 3771(d)(3) provided for the assertion of CVRA rights “in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred,” the CVRA clearly provided for “rights . . . that apply before any prosecution is underway.” (*United States v. BP Products North America, Inc.*, Criminal No. H-07-434, 2008 WL 501321 at *11 (S.D.Tex. Feb.21, 2008) (emphasis in original), mandamus denied in part, *In re Dean*, No. 08-20125, 2008 WL 1960245 (5th Cir. May 7, 2008). But, assuming that it was within the contemplation and intendment of the CVRA to guarantee certain victim's rights prior to formal commencement of a criminal proceeding, the universe of such rights clearly has its logical limits. For example, the realm of cases in which the CVRA might apply despite no prosecution being “underway,” cannot be read to include the victims of uncharged crimes that the government has not even contemplated. It is impossible to expect the government, much less a court, to notify crime victims of their rights if the government has not verified to at least an elementary degree that a crime has actually taken place, given that a corresponding investigation is at a nascent or theoretical stage.

Id. at *6. Here, of course, the criminal investigation went far beyond the “nascent or theoretical stage” – to a point where the Government determined that crimes had been committed and that the defendant should plead guilty to either a state or federal offense.

Similarly, at least one other district court has reviewed the issue and agreed with the victims' position that crime victims can have rights before charges are filed. In rejecting an argument that the CVRA should be limited to cases in which a defendant has been convicted, *United States v. Okun*, explained: “Furthermore, the Fifth Circuit has noted that victims acquire

rights under the CVRA even before prosecution. *See In re Dean*, 527 F.3d 391, 394 (5th Cir.2008). This view is supported by the statutory language, which gives the victims rights before the accepting of plea agreements and, therefore, before adjudication of guilt. *See* 18 U.S.C. § 3771(a)(4).” 2009 WL 790042 at *2 (E.D.Va. 2009).

Accordingly, rather than create a split of authority, this Court should follow the Fifth Circuit’s holding in *Dean* (and the view of the U.S. District Courts for the Eastern District of New York and the Eastern District of Virginia) and conclude that the CVRA extends rights to Jane Doe #1 and Jane Doe #2 under the facts of this case.

C. The U.S. Attorney’s Office Has Previously Recognized that Jane Doe #1 and Jane Doe #2 Have Rights Under the CVRA.

A final reason for concluding that Jane Doe #1 and Jane Doe #2 are protected by the CVRA is that the U.S. Attorney’s Office itself reached that conclusion – well before the victims filed this petition. The U.S. Attorney’s Office arranged to have the FBI send a notice to, for example, Jane Doe #1 informing her that she had rights under the CVRA. Later, in discussions with defendant Epstein, the Office explained to Epstein their obligations to the victims under the CVRA. Indeed, it was only *after* Jane Doe #1 and Jane Doe #2 filed a petition with this Court seeking protection of their rights that the U.S. Attorney’s Office reversed its position. The Court should reject this remarkable about-face.

As recounted in more detail above, the U.S. Attorney’s Office made clear to both the victims and to Epstein that the victims had rights under the CVRA. For example, on about June 7, 2007, FBI agents hand-delivered to Jane Doe #1 a standard CVRA victim notification letter, promising that the Justice Department would make its “best efforts” to protect Jane Doe #1’s

rights, including “[t]he reasonable right to confer with the attorney for the United States in the case” and “to be reasonably heard at any public proceeding in the district court involving . . . plea” Exhibit “C.” Similarly, on about November 27, 2007, then First Assistant U.S. Attorney Jeff Sloman sent an e-mail to Jay Lefkowitz, defense counsel for Epstein stating: [REDACTED]

[REDACTED]

[REDACTED] U.S. Attorney’s Correspondence at 255 (emphasis rearranged). Apparently, this assertion produced some sort of objection from defendant Epstein. The U.S. Attorney’s Office, however, rejected those objections. In a letter on about December 6, 2007, Jeffrey H. Sloman, First Assistant U.S. Attorney again sent a letter to Jay Lefkowitz, reiterating the U.S. Attorney’s Office’s legal obligations to keep victims informed of the status of [REDACTED]. The letter stated:

[REDACTED]

U.S. Attorney's Correspondence at 191-92 (emphasis added). What this correspondence shows is that the U.S. Attorney's Office quite clearly took the position with defendant Epstein that the CVRA extended rights to Epstein's victims. Yet when the victims in this case filed a petition in this Court asking those rights to be respected, the Government simply reversed course. The U.S. Attorney's Office had it right the first time – the CVRA does extend rights to Jane Doe #1 and Jane Doe #2 in this case.

D. The U.S. Attorney's Office Is Estopped From Arguing that the CVRA Does Not Apply in this Case.

For all the reasons just explained, it is clear that the CVRA applies to this case and the Jane Doe #1 and Jane Doe #2 had rights under the Act. In addition, however, the Government is simply stopped from arguing otherwise. *The Government told the victims that they had rights under the CVRA and would keep them informed about the progress of the case.* Exhibits "C," "D," "F," & "G." Having made those representations to the victims – and having induced reliance by the victims – the Government is stopped from taking a different position now.

As explained by the Eleventh Circuit, to make out a claim of estoppel against the Government, a party must adduce evidence of the following:

- (1) words, conduct, or acquiescence that induces reliance;
- (2) willfulness or negligence with regard to the acts, conduct, or acquiescence;
- (3) detrimental reliance; and
- (4) affirmative misconduct by the Government.

United States v. McCorkle, 321 F.3d 1292 (11th Cir. 2003). Each of these four factors is easily met here.

First, the Government made statements to the victims that induced reliance. The victims received an official notice on Justice Department letterhead that they were crime victims in the Epstein case and that the Justice Department would use its "best efforts" to protect their rights.

Second, these statements were obviously not accidental – to the contrary, the Government specifically and deliberately sent these notices to the victims.

Third, the victims detrimentally relied on these statements. As explained at greater length in the victims proposed facts, the victims were lead to believe that their case was "under investigation." As a result, they did not take steps to object to Epstein's plea agreement and, indeed, did not even attend the court hearing where Epstein pled guilty. Similarly, their attorney (Mr. Edwards) was induced to spend an afternoon writing a letter to the U.S. Attorney's Office about why Epstein should be federally prosecuted – time that was taken away from other matters at his busy law practice. This was a complete wild goose chase, as the U.S. Attorney's Office was concealing from Mr. Edwards at the time that a federal non-prosecution agreement had already been reached with Epstein.

Fourth, the U.S. Attorney's Office engaged in affirmative misconduct. We do not make this allegation lightly. But the facts recounted above demonstrate the following chain of events. The U.S. Attorney's Office first reached a non-prosecution agreement with Epstein, in which it agreed not to prosecute him for numerous crimes (including, for example, sex offenses committed by Epstein against Jane Doe #1). As part of that agreement, the U.S. Attorney's Office agreed to a "confidentiality" provision that forbade publicly disclosing the existence of the agreement. As a result, the U.S. Attorney's Office (and FBI agents acting under its

direction⁴) kept the existence of the non-prosecution agreement secret from the victims and the public. The reasonable inference from the evidence is that the U.S. Attorney's Office wanted to keep the agreement a secret to avoid intense criticism that would have surely ensued had the victims and the public learned that a billionaire sex offender with political connections had arranged to avoid federal prosecution for numerous felony sex offenses against minor girls.

As part of this pattern of deception, the U.S. Attorney's Office discussed victim notification with the defendant sex offender and, after he raised objections, stopped making notifications. Then later in January 2008, the U.S. Attorney's Office arranged for letters to be sent to the victims – including Jane Doe #1 and Jane Doe #2 – that falsely stated that to each that your “case is currently under investigation.” This was untrue, as the U.S. Attorney's Office had already resolved the federal case by signing a non-prosecution agreement with Epstein. Indeed, the pattern of deception continued even after Jane Doe #1 and Jane Doe #2 were represented by legal counsel. In May 2008, the Office sent a similar letter stating “your case is currently investigation” to another victim (represented by attorney Bradley J. Edwards). As late as the middle of June 2008 – more than eight months after the non-prosecution agreement had been signed -- the Assistant U.S. Attorney handling the case told Edwards to send information that he wanted the Office to consider in determining whether to file federal charges. The Office concealed from him that it had already made the determination not to file federal charges and that the Office had in fact signed a non-prosecution agreement long ago. The Office also concealed from him the fact that guilty pleas in state court were imminent. The Office disclosed

⁴ It is unknown whether the U.S. Attorney's Office even made the FBI aware of the NPA in a timely fashion.

the non-prosecution agreement only after Epstein had entered his guilty pleas in state court – in other words, only after the time for the victims to be able to object to the non-prosecution agreement during the plea process had come and gone. Even at that time, the Office did not disclose the provisions in the agreement. In short, the victims never learned about the non-prosecution agreement barring federal prosecution of their cases because of a deliberate decision by the U.S. Attorney's Office, not mere "negligence or inaction." *McCorkle*, 321 F.3d at 1297. Accordingly, the Government is stopped from arguing that the Crime Victims' Rights Act does not apply to this case.

II. THE COURT SHOULD FIND THAT THE VICTIMS' RIGHTS HAVE BEEN VIOLATED AND THEN SET UP A BRIEFING SCHEDULE AND HEARING ON THE APPROPRIATE REMEDY.

This U.S. Attorney's Office's behavior in this case does not satisfy the Office's obligations under the CVRA to use its "best efforts" to insure that victims receive protection of their rights. 18 U.S.C. § 3771(c)(1). In particular, the undeniable chain of events makes clear that the victims were not afforded their right "to confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). Whatever else may be said about the deception, it also starkly violates the victims' right "to be treated with fairness and with respect for the victim's dignity . . ." 18 U.S.C. § 3771(a)(8). The pattern also denied the victims of timely notice of court proceedings, 18 U.S.C. § 3771(a)(3), including in particular the state court guilty plea.

As we understand the position of the Government, it does not truly contest that – if the CVRA applied – it managed to discharge its various obligations under the Act. Instead, the Government relies solely on a technical argument to reach the conclusion that it discharged its obligations – namely, the argument that the CVRA does not apply until a formal indictment is

filed. As just explained, however, that technical argument must be rejected as inconsistent with the CVRA's plain language and interpretation by other courts. Accordingly, this Court should find that the Government has violated its CVRA obligations.

Once the Court finds such a violation, the next issue becomes what remedy should apply. Since the earliest days of our nation, it has been settled law that "where there is a legal right, there is also a legal remedy" *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (internal quotation omitted). Moreover, "[i]f the right is created by a federal statute, the federal courts have the power to fashion an appropriate remedy." *Intracoastal Transp., Inc. v. Decatur County, Georgia* 482 F.2d 361, 371 (5th Cir. 1973). As we understand the Government's position in this case, however, they believe that this Court is powerless to do anything to correct the palpable violation of victims' rights documented in this case.

Jane Doe #1 and Jane Doe #2 respectfully request that the Court set up a briefing schedule and a hearing on this important issue. The victims believe that they can establish that the appropriate remedy for the clear violations of their rights is to invalidate the Non-Prosecution Agreement. While the victims request an opportunity to provide more extensive briefing on this subject, they provide a few citations in support of their position here.

When other plea arrangements have been negotiated in violation of federal law, they have been stricken by the courts. For example, *United States v. Walker*, 98 F.3d 944 (7th Cir. 1996), held that where a sentence on a new crime could not run concurrently with a probation revocation the defendant was then serving – contrary to the assumption of the parties to the plea agreement – the defendant was not entitled to specific performance of the plea agreement. The Court explained that the case was one "in which the bargain is vitiated by illegality . . ." *Id.* at

947. Here, of course, exactly the same is true: the non-prosecution agreement is vitiated by illegality – namely, the fact that it was negotiated in violation of the victims’ rights. Other cases reach similar conclusions. *See, e.g., United States v. Cooper*, 70 F.3d 563, 567 (10th Cir. 1995) (prosecutor agreed to recommend probation, but it later appeared that would be an illegal sentence in this case, and thus only adequate remedy is to allow defendant to withdraw plea); *Craig v. People*, 986 P.2d 951, 959-60 (Colo. 1999) (because “neither the prosecutor nor the trial court have authority to modify or waive the mandatory parole period,” such “is not a permissible subject of plea negotiations,” and thus, even if “the trial court erroneously approves of such an illegal bargain” such plea is “invalid” and thus will not be specifically enforced). Nor can the defendant claim some right to specific performance of an illegal non-prosecution agreement. *See State v. Garcia*, 582 N.W.2d 879, 881-82 (Minn. 1998) (plea agreement for 81 months sentence, but court added 10-year conditional release term because, under facts of case, sentence without such release term “plainly illegal,” and thus remedy of specific performance not available); *State v. Wall*, 348 N.C. 671, 502 S.E.2d 585, 588 (1998) (plea agreement was for sentence to be concurrent with one not yet completed, but state statute mandates consecutive sentence on facts of this case; “defendant is not entitled to specific performance in this case because such action would violate the laws of this state”); *Ex parte Rich*, 194 S.W.3d 508, 515 (Tex. Crim. App. 2006); (where “the plea bargain seemed fair on its face when executed, it has become unenforceable due to circumstances beyond the control of [the parties], namely the fact that one of the enhancement paragraphs was mischaracterized in the indictment, resulting in an illegal sentence far outside the statutory range,” proper remedy is plea withdrawal, as “there is no way of knowing whether the State would have offered a plea bargain within the proper range of

punishment that he deemed acceptable"); *State v. Mazzone*, 212 W.Va. 368, 572 S.E.2d 891, 897 (2002) (where plea agreement was that defendant would plead guilty to 2 felony counts of felon in possession of firearm and prosecutor would dismiss remaining 6 counts re other offenses with prejudice, and all parties erroneously believed these 2 crimes were felonies, lower court "correctly resolved this unfortunate predicament by holding that a plea agreement which cannot be fulfilled based upon legal impossibility must be vacated in its entirety, and the parties must be placed, as nearly as possible, in the positions they occupied prior to the entry of the plea agreement").

The Non-Prosecution Agreement that the Government entered into in this case was simply illegal. The Government did not protect the congressionally-mandated rights of victims before it entered into this Agreement. Perhaps it is for this reason that the Agreement is so shockingly lenient – blocking prosecution for dozens and dozens of federal felony sex offenses against several dozen minor girls. But regardless of the leniency, the only issue for the Court is whether the Agreement was lawful. It was not, and so the Court invalidate it.⁵ The victims respectfully ask for a full briefing schedule and a hearing on this important issue.

⁵ Defendant Jeffrey Epstein was notified about this case long ago, and was notified on August 26, 2010, that the victims would be filing correspondence in support of their motions. He has not chosen to intervene in this action, and so he should not be heard to complain about remedy the Court might impose.

In any event, there are no double jeopardy barriers to invalidating the plea. As explained in a leading criminal procedure treatise:

The review of defendant's sentence is also provided in federal cases upon application of a victim. The Crime Victim's Rights Act allows a victim to seek to reopen a sentence through a writ of mandamus, if the victim has asserted and been denied the right to be heard at sentencing. Like the prosecution's statutory right to appeal, the victim's statutory remedy should pose no double jeopardy

CERTIFICATE OF CONFERENCE

As recounted above, counsel for Jane Doe #1 and Jane Doe #2 have approached the U.S. Attorney's Office for more than two and a half years in an effort to reach stipulated facts. The U.S. Attorney's Office ultimately terminated those efforts on March 15, 2011, taking the position that the facts of the case are irrelevant and that, on any set of facts, it did not violate the CVRA.

CONCLUSION

For all the foregoing reasons, the Court should find the U.S. Attorney's Office violated Jane Doe #1 and Jane Doe #2's rights under the Crime Victims Rights Act and then schedule an appropriate hearing on the remedy for these violations. The scope of the remedy that is appropriate may depend in part of the scope of the violations that the Court finds. For this reason, it makes sense for the Court to bifurcate the process and determine, first, the extent of the violations and then, second, the remedy appropriate for those violations. If the Court would prefer to see more immediate briefing on remedy issues, the victims stand prepared to provide that briefing at the Court's direction.

difficulties if as the [*DiFrancesco*] Court explained . . . the defendant is 'charged with knowledge of the statute and its . . . provisions, and has no expectation of finality in his sentence until the [review by writ] is concluded'"

LAFAYE ET AL., CRIMINAL Procedure § 26.7(b) (Nov. 2010) (*quoting United States v. DiFrancesco*, 449 U.S. 117, 146 (1980)).

DATED: March 21, 2011

Respectfully Submitted,

s/ Bradley J. Edwards

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Attorneys for Jane Doe #1 and Jane Doe #2

CERTIFICATE OF SERVICE

The foregoing document was served on March 21, 2011, on the following using the Court's

CM/ECF system:

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(courtesy copy of pleading via U.S. mail)

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT A

Filed Under Seal

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT B

FD-302 (Rev. 10-6-95)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/14/2007

C [REDACTED] W [REDACTED] was interviewed in West Palm Beach, Florida, regarding a federal investigation involving the sexual exploitation of minors. After being advised of the identity of the interviewing agents and the nature of the interview, W [REDACTED] provided the following information:

In 2003 or 2004 W [REDACTED] was introduced to JEFFREY EPSTEIN for the purpose of providing him with personal massages. W [REDACTED] was approached at a party by a female she believed was named CHARLISE. She described the female as having brown hair and taller. The female was later identified as [REDACTED]. [REDACTED] told W [REDACTED] and W [REDACTED]'s friend, T [REDACTED] M [REDACTED], that they could make money by providing massages to EPSTEIN. [REDACTED] told W [REDACTED] that she could provide the massages with her clothes on or off. W [REDACTED], who was fifteen years old, believed that she was close to turning sixteen when she first met EPSTEIN. However, during W [REDACTED]'s first contact with EPSTEIN, she told him that she had just turned eighteen.

[REDACTED] and W [REDACTED] traveled to EPSTEIN's residence in Palm Beach by taxi. [REDACTED] was pregnant at the time. Once at the residence, [REDACTED] took W [REDACTED] upstairs. EPSTEIN entered the room wearing only a robe. Once EPSTEIN had removed the robe, both [REDACTED] and W [REDACTED] provided EPSTEIN with a massage. Both [REDACTED] and W [REDACTED] had removed their clothing and remained only in their underwear. EPSTEIN asked [REDACTED] to leave. Once alone with W [REDACTED] EPSTEIN began to masturbate. W [REDACTED] was uncomfortable. After EPSTEIN climaxed the massage was over. W [REDACTED] believed that [REDACTED] had mentioned EPSTEIN might masturbate during the massage but she was still very surprised when he masturbated. EPSTEIN paid W [REDACTED] \$200.00. EPSTEIN did not touch W [REDACTED] during that massage. W [REDACTED] departed EPSTEIN's residence with two men that worked for EPSTEIN. They drove W [REDACTED] to a Shell Gas Station located near Okeechobee Boulevard and the Florida Turnpike.

Prior to departing the residence, W [REDACTED] provided her telephone number to one of EPSTEIN's assistants, [REDACTED] (PHONETIC). W [REDACTED] described her as a very pretty Hispanic female in her early twenties, with long brown hair, and approximately 5'5" to 5'6" tall. W [REDACTED] stated that [REDACTED] [REDACTED], another of EPSTEIN's assistants, or EPSTEIN would usually contact her. [REDACTED] would telephone and ask if she was available or if she had any other

Investigation on 08/07/2007 at West Palm Beach, Florida

File # 31E-MM-108062

Date dictated 08/07/2007

by SA E. Nesbitt Kuyrkendall
SA Jason R. Richards

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FD-302a (Rev. 10-6-95)

31E-MM-108062

Continuation of FD-302 of C [REDACTED] W [REDACTED] , On 08/07/2007 , Page 2

girls she could bring. When EPSTEIN telephoned, he usually asked for W [REDACTED] to come over. According to W [REDACTED], EPSTEIN's house telephone number began with the digits 655. She would call sometimes and leave a message. W [REDACTED] stated that when they telephoned her they would inform her of when they would be coming back to town and if she might have anyone new. W [REDACTED] did not believe that EPSTEIN ever really liked her.

W [REDACTED] traveled to the EPSTEIN's residence during 2003 and 2004 over twenty five times. W [REDACTED] believed that she provided EPSTEIN with approximately 10-15 massages. EPSTEIN initially started out touching W [REDACTED]'s breasts but gradually the massages became more sexual. EPSTEIN would instruct W [REDACTED] on how and what to do during the massages. He would request W [REDACTED] to rub his chest and nipples. W [REDACTED] stated that on approximately two occasions, EPSTEIN asked that W [REDACTED] remove her underwear and provide the massage nude. W [REDACTED] complied. W [REDACTED] stated that EPSTEIN would make her feel that she had the option to do what she wanted.

During one massage, W [REDACTED] stated that she had been giving EPSTEIN a massage for approximately 30-40 minutes when instead of EPSTEIN turning over to masturbate, EPSTEIN brought another female into the massage area. W [REDACTED] described the female as a beautiful blonde girl, a "Cameron Diaz" type, 19 years of age, bright blue eyes, and speaking with an accent. EPSTEIN had W [REDACTED] straddle the female on the massage table. EPSTEIN wanted W [REDACTED] to touch the female's breast. According to W [REDACTED], EPSTEIN "pleasured" the female while W [REDACTED] was straddled on top of the female. W [REDACTED] stated she could hear what she believed to be a vibrator. W [REDACTED] said for EPSTEIN it was all about pleasuring the female. After the female climaxed, EPSTEIN patted W [REDACTED] on the shoulder and she removed herself from the table. The female got up from the table and went into the spa/sauna. EPSTEIN commented to W [REDACTED] that in a few minutes the female would realize what had just happened to her. W [REDACTED] received \$200.00.

W [REDACTED] advised the interviewing agents that EPSTEIN had used a back massager on her vagina. EPSTEIN asked her first if he could use the massager on her. W [REDACTED] stated that she had held her breath when EPSTEIN used the back massager on her. W [REDACTED] stated that at no time during any of the massages had EPSTEIN caused her to climax.

During another massage, W [REDACTED] believed by this time she was seventeen, EPSTEIN placed his hand on W [REDACTED]'s vagina, touching

EFTA01081708

FD-302a (Rev. 10-6-95)

31E-MM-108062

Continuation of FD-302 of C W , On 08/07/2007, Page 3

W clitoris. W was uncomfortable and told him to stop. EPSTEIN complied. W stated that the incident freaked her out. W stated that EPSTEIN was upset because she was upset. W never return to the residence. W stated that she did not deal with EPSTEIN anymore after that incident.

EPSTEIN gave both W and M each a book entitled "Massage for Dummies". They received the books on the same visit. EPSTEIN also commented how strong W 's hands were when it came to her providing his massages.

On another occasion, W mentioned to EPSTEIN that she was looking at a car, a Toyota Corolla. EPSTEIN provided W with \$600.00 - \$700.00. W stated that EPSTEIN gave her the money after the incident with the other female.

According to W EPSTEIN would ask her to bring him other girls. W who started dancing at strip clubs when she was 16, brought girls from the club as well as from other sources. WILD stated she brought girls from fifteen years of age to twenty-five years of age. W stated that EPSTEIN would get frustrated with her if she did not have new females for him. On one instance, EPSTEIN hung up on her because she could not provide him with anyone new. W stated that EPSTEIN's preference was short, little, white girls. W stated that EPSTEIN was upset when one of the other girls brought a black girl. W stated that EPSTEIN did not want black girls or girls with tatoos.

W stated that one of the girls she stayed with on occasion, , also started providing EPSTEIN with massages. A telephone number for was . W said that her family resides in , Florida, possibly . W also stayed with during this same time period. However, never went to EPSTEIN's house or provided him with massages. has a Yacht Club address.

Another girl that W had taken to EPSTEIN's residence was L Last Name Unknown(LNU). According to W EPSTEIN liked L LNU a lot. W said that she was never a favorite of EPSTEIN. EPSTEIN offered W \$300.00 to bring L LNU. L LNU was a couple years younger than W W believed that she was either 16 or 17 when she first went to EPSTEIN's residence. W said that L LNU went 2-3 times but that she did not want any part of it after that. W believes she could identify L LNU if she saw her photograph. W also stated that L LNU at

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FD-302a (Rev. 10-6-95)

31E-MM-108062

Continuation of FD-302 of C [REDACTED] W [REDACTED] , On 08/07/2007, Page 5

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT C



U.S. Department of Justice

United States Attorney
Southern District of Florida



500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

Facsimile: [Redacted]

June 7, 2007

DELIVERY BY HAND

Miss [Redacted] W [Redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss W [Redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [Redacted], or Special Agent Nesbitt Kuyrkendall from the Federal Bureau of Investigation at [Redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [Redacted]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

copy

MISS C [REDACTED] W [REDACTED]
JUNE 7, 2007
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent Kuyrkendall or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent Kuyrkendall or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 
A. Marie Villafañá
Assistant United States Attorney

cc: Special Agent Nesbitt Kuyrkendall, F.B.I.

11
12

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT D



U.S. Department of Justice

United States Attorney
Southern District of Florida500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

Facsimile: [REDACTED]

August 11, 2006

DELIVERY BY HAND

Miss T [REDACTED] M [REDACTED]

Re: Crime Victims' and Witnesses' Rights

Dear Miss M [REDACTED]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [REDACTED], or Special Agent Nesbitt Kuyrkendall from the Federal Bureau of Investigation at [REDACTED]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [REDACTED]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

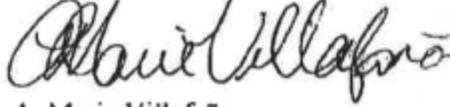
MISS T [REDACTED] M [REDACTED]
AUGUST 11, 2006
PAGE 2

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also are entitled to restitution from the perpetrator. A list of counseling and medical service providers will be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent Kuyrkendall or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent Kuyrkendall or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 
A. Marie Villafañá
Assistant United States Attorney

cc: Special Agent Nesbitt Kuyrkendall, F.B.I.

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT E

**IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN**

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

- (1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;
- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and
 - (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.
3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.
4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.
5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.
6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.
8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.
10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.
11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.
13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to [REDACTED], Adriana Ross, Lesley Groff, or [REDACTED] Marcinkova. Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

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By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: 8/24/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

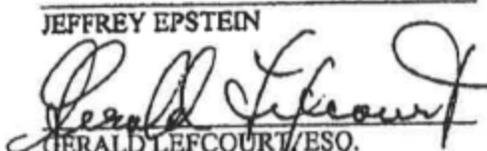
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: _____

Dated: 9/24/07

JEFFREY EPSTEIN

GERALD LEFCOURT/ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

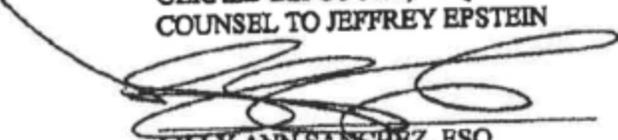
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07



LILLY ANN SANGHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

- 7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.
- 7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, *infra*.
- 7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: 1/29/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

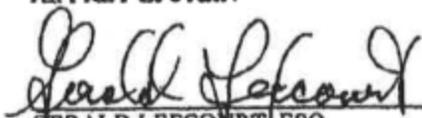
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: _____

Dated: 10/29/07

JEFFREY EPSTEIN

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

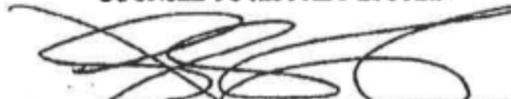
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

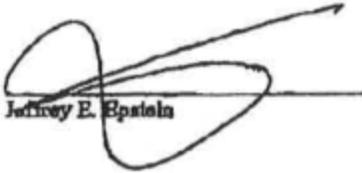
Dec-07-07 04:55pm From:Fowler-White Burnett

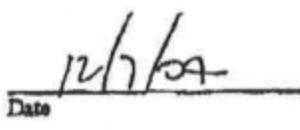
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Affirmation

I, Jeffrey E. Epstein do hereby re-affirm the Non-Prosecution Agreement and Addendum in same dated October 30, 2007.


Jeffrey E. Epstein


Date

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT F



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: [REDACTED]
Fax: [REDACTED]

January 10, 2008

C. W. [REDACTED]
[REDACTED]
[REDACTED]

Re: Case Number: [REDACTED]

Dear C. W. [REDACTED]:

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-[REDACTED]) (TDD/TTY: 1-866-228-4619) (International: 1-[REDACTED]). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) '1941737' and Personal Identification Number (PIN) '5502' anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is W. [REDACTED]



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Twiler Smith
Victim Specialist

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT G



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: [REDACTED]
Fax: [REDACTED]

January 10, 2008

James Eisenberg
One Clearlake Center Ste 704 Australian South
West Palm Beach, FL 33401

Re: [REDACTED]

Dear James Eisenberg:

You have requested to receive notifications for [REDACTED]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

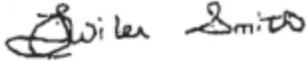
We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4618) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) '1941741' and Personal Identification Number (PIN) '7760' anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is Eisenberg.



If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Twiler Smith
Victim Specialist

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT H

FD-302 (Rev. 10-6-95)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/08/2008

On Thursday, January 31, 2008, C [redacted] W [redacted] met with Assistant United States Attorney MARIE VILLAFANA, UNITED STATES ATTORNEY'S OFFICE (USAO) and Attorney MYESHA K. BRADEN, UNITED STATES DEPARTMENT OF JUSTICE(DOJ), CRIMINAL DIVISION. Also present at the meeting were Special Agents E. NESBITT KUYRKENDALL and JASON R. RICHARDS, FEDERAL BUREAU OF INVESTIGATION. The meeting was arranged pursuant to a federal investigation regarding the sexual exploitation of minors. During the course of the meeting, W [redacted] provided the following additional or clarifying information not previously documented in earlier FD-302s:

JEFFREY EPSTEIN and his assistants, [redacted] and [redacted] (identified as [redacted] and [redacted]) would contact W [redacted] to set up appointments for EPSTEIN's massages. According to W [redacted], [redacted] would call and say that EPSTEIN was on a flight and inquire about scheduling work for W [redacted]

Life was not going well for W [redacted] during the time she was providing EPSTEIN with massages. W [redacted] was buying and taking drugs, i.e. Xanax, Lorcets, and Percosets. W [redacted] said that she stayed on pills. W [redacted] explained that she wanted to feel numb. W [redacted] stopped attending school at age fifteen. Her parents were addicted to crack and cocaine. Prior to her parent's drug use, W [redacted] was in the band, a cheerleader, and a straight "A" student. W [redacted] played the trumpet for the school band. When her parent's drug habits got bad, things went downhill, they lost everything.

W [redacted] became a dancer the day before her sixteenth birthday at [redacted]. She worked there for six months, up until the employer found out she was underage. Later, W [redacted] worked for [redacted] which she did for 6 months. W [redacted] stopped seeing EPSTEIN during that time.

W [redacted] stated that she brought up to twenty, twenty-five, or thirty different girls. W [redacted] said all of the girls but maybe ten of them were underage. Some of the females W [redacted] brought for EPSTEIN were dancers. W [redacted] said that EPSTEIN did not care for all of the girls she brought to him. W [redacted] explained that EPSTEIN did not care for some of the dancers, the older females, and the females with tattoos.

Investigation on 01/31/2008 at West Palm Beach, Florida

File # 31E-MM-108062

Date dictated 01/31/2008

by SA E. Nesbitt Kuyrkendall
SA Jason R. Richards

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

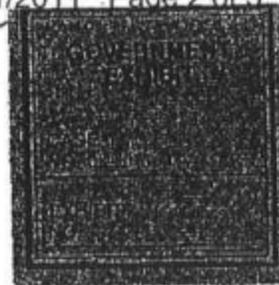
**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT I



U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: [REDACTED]
Fax: [REDACTED]



May 30, 2008

[REDACTED]

Re: [REDACTED]

Dear S [REDACTED]

Your name was referred to the FBI's Victim Assistance Program as being a possible victim of a federal crime. We appreciate your assistance and cooperation while we are investigating this case. We would like to make you aware of the victim services that may be available to you and to answer any questions you may have regarding the criminal justice process throughout the investigation. Our program is part of the FBI's effort to ensure the victims are treated with respect and are provided information about their rights under federal law. These rights include notification of the status of the case. The enclosed brochures provide information about the FBI's Victim Assistance Program, resources and instructions for accessing the Victim Notification System (VNS). VNS is designed to provide you with information regarding the status of your case.

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

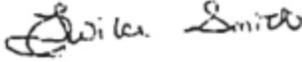
The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-[REDACTED]) (TDD/TTY: 1-[REDACTED]) (International: 1-[REDACTED]). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) '2074381' and Personal Identification Number (PIN) '1818' anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is R [REDACTED]

[REDACTED]

[REDACTED]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,



Twiler Smith
Victim Specialist

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT J



July 3, 2008

Ann Marie C. Villafana, AUSA
United States Attorney's Office
500 South Australian Avenue
West Palm Beach, Florida 33401

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7007 2680 0002 5519 8503

Dear Ms. Villafana:

As you are aware, we represent several of the young girls that were victimized and abused by Jeffrey Epstein. While we are aware of his recent guilty plea and conviction in his State Court case, the sentence imposed in that case is grossly inadequate for a sexual predator of this magnitude. The information and evidence that has come to our attention in this matter leads to a grave concern that justice will not be served in this cause if Mr. Epstein is not aggressively prosecuted and appropriately punished. Based on our investigation and knowledge of this case, it is apparent that he has sexually abused more than 100 underage girls, and the evidence against him is overwhelmingly strong.

As former Assistant State Attorneys with seven years' prosecution experience, we believe that the evidence against Mr. Epstein is both credible and deep and that he may be the most dangerous sexual predator of children that our country has ever seen. The evidence suggests that for at least 4 years he was sexually abusing as many as three to four girls a day. It is inevitable that if he is not confined to prison, he will continue to manipulate and sexually abuse children and destroy more lives. He is a sexual addict that focused all of his free time on sexually abusing children, and he uses his extraordinary wealth and power to lure in poor, underprivileged little girls and then also uses his wealth to shield himself from prosecution and liability. We are very concerned for the health and welfare of the girls he has already victimized, and concerned that if justice is not properly served now and he is not imprisoned for a very long time, he will get a free pass to sexually abuse children in the future. Future abuse and victimization is obvious to anyone who really reviews the evidence in this case, and future sexual abuse of minors is inevitable unless he is prosecuted, tried and appropriately sentenced. Money and power should not allow a man to make his own laws, and he has clearly received preferential treatment at every step up to this point. If he were a man of average wealth or the abused girls were from middle or upper class families, then this man would spend the rest of his life in prison. In a country of true, blind justice, those distinctions are irrelevant, and we really hope he does not prove the point that a man can commit heinous crimes against children and buy his way out of it.

If the Department of Justice's recent commitment to the protection of our children from child molesters is to be more than rhetoric, then this is the time and the case where the Department must step forward. We urge the Attorney General and our United States

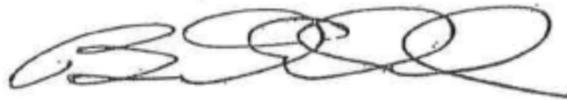
2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: [REDACTED]
FAX: [REDACTED]

Ann Marie C. Villafana, AUSA
United States Attorney's Office
Page Two

Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual perpetrator. We will help you to do this in any way possible to ensure that true Justice is served in this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Edwards', with a stylized flourish at the end.

Brad Edwards, Esquire
Jay Howell, Esquire

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: [REDACTED]
FAX: [REDACTED]

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>A. We</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Express</i></p> <p>C. Date of Delivery <i>7/7/08</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Ann Marie C. Villafana; AUSA United States Attorney's Office 500 South Australian Avenue West Palm Beach, Florida 33401</p> </div>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7007 2680 0002 5519 8503</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

7007 2680 0002 5519 8503

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE
CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE
REMEDIES**

CASE NO: 08-80736-Civ-Marra/Johnson

EXHIBIT K



U.S. Department of Justice

United States Attorney
Southern District of Florida



500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

Facsimile: [REDACTED]

July 9, 2008

VIA FACSIMILE

Brad Edwards, Esq.
The Law Offices of Brad Edwards & Associates, LLC
2028 Harrison Street, Suite 202
Hollywood, Florida 33020.

Re: Jeffrey Epstein/C [REDACTED] W [REDACTED] NOTIFICATION OF IDENTIFIED VICTIM

Dear Mr. Edwards:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, C [REDACTED] W [REDACTED].

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control I, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein

BRAD EDWARDS, ESQ.

NOTIFICATION OF IDENTIFIED VICTIM C [REDACTED] W [REDACTED]

JULY 9, 2008

PAGE 2 OF 2

had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that your client, O [REDACTED] W [REDACTED] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401, [REDACTED]

DATA
Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents Kuyrkendall and Richards for the health and well-being of Ms. W [REDACTED]

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By:


A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES
_____ /

**JANE DOE #1 AND JANE DOE #2'S MOTION TO HAVE THEIR FACTS ACCEPTED
BECAUSE OF THE GOVERNMENT'S FAILURE TO CONTEST ANY OF THE FACTS**

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to move this Court to accept all of their facts in their Motion for Finding of Violations of the Crime Victims' Rights Act. The victims have been attempting to negotiate with the Government for more than 30 months on a stipulated set of facts. Despite repeated opportunities to advise the victims of what facts they are contesting, the Government in the last few days has flatly declared that it will not discuss the facts in this case. This is violation of the Court's direction to the parties as well as the local rule on the subject. Accordingly, the Government should be deemed to have failed to contest the victims' facts and the Court should proceed to resolve this case on the basis of the victims' proffered facts.

FACTUAL BACKGROUND

The victims have been attempting to reach an agreement on the facts surrounding this case since filing their petition on June 7, 2008. In that petition, the victims¹ recited the facts as

¹ The petition was initially filed on behalf of Jane Doe #1. Jane Doe #2 was quickly added into the case. For simplicity, we will refer to the pleadings as having been filed by "the

they understood them at the time – i.e., the victim asserted “upon information and belief” that they understood that Epstein was involved in on-going plea negotiations with the U.S. Attorney’s Office for the Southern District of Florida. Victims’ Petition (doc. #1) at 1. On July 9, 2008, the Government responded with a sealed response (quickly unsealed by the Court), that stated that an agreement had already been reached with Epstein. Government’s Response to Victims’ Emergency Petition (doc. #13). Two days later, the victims replied, explaining that they were just learning these facts from the Government’s pleading. *See, e.g.*, Victims’ Reply to Government’s Response (doc. #9) at 8.

The Court quickly scheduled a hearing on the victims’ petition, held on July 11, 2008. The Court discussed a need to “hav[e] a complete record, and this is going to be an issue that’s ... going to go to the Eleventh Circuit, [so it] may be better to have a complete record as to what your position is and the government’s is as to what actions were taken.” Tr. at 25-26. Counsel for the victims explained: “. . . I will confer with the government on this and if evidence needs to be taken, it [can] be taken at a later date.” Tr. at 26. The Court concluded the hearing with the following instructions: “So I’ll let both of you confer about whether there is a need for any additional evidence to be presented. Let me know one way or the other. If there is, we’ll schedule a hearing. If there isn’t and you want to submit some additional stipulated information, do that, and then I’ll take care of this in due course.” Tr. at 32.

The victims and the U.S. Attorney’s Office then attempted to reach a stipulated set of facts underlying the case. The U.S. Attorney’s Office offered a very abbreviated set of proposed facts, and the victims responded with a detailed set of proposed facts. Rather than respond to the

victims.”

victims' specific facts, however, the U.S. Attorney's Office suddenly reversed course. On July 29, 2008, it filed a Notice to Court Regarding Absence of Need for Evidentiary Hearing (doc. #17). The U.S. Attorney's Office took the following position: "After consideration, the Government believes that an evidentiary hearing is not necessary" (doc. #17 at 1). The Office asserted that the Court need only take judicial notice of the fact that no indictment had been filed against Epstein to resolve the case.

On August 1, 2008, the victims filed a response to the Government's "Notice" (doc. #19), giving a proposed statement of facts surrounding the case. The proposed statement of facts highlighted the fact that the Government had signed a non-prosecution agreement containing an express confidentiality provision, which prevented the Government from disclosing the agreement to them and other victims. *Id.* at 5. The victims response also requested that the Court direct the Government to confer with the victims regarding the undisputed facts of the case, produce the non-prosecution agreement and other information about the case. *Id.* at 14.

On August 14, 2008, the Court held a hearing on the case regarding the confidentiality of the non-prosecution agreement. The Court ultimately ordered production of the agreement to the victims.

After the U.S. Attorney's Office made the non-prosecution agreement available to the victims, the victims reviewed it and pursued further discussions with the U.S. Attorney's Office. Ultimately, however, the U.S. Attorney's Office declined to reach a stipulated set of facts with the victims and declined to provide further information about the case.

With negotiations at an impasse, the victims attempted to learn the facts of the case in other ways. In approximately May 2009, counsel for the victims propounded discovery requests

in both state and federal civil cases against Epstein, seeking to obtain correspondence between Epstein and prosecutors regarding his plea agreement – information that the U.S. Attorney's Office was unwilling to provide to the victims. Epstein refused to produce that information, and (as the Court is aware) extended litigation to obtain the materials followed. The Court rejected all of Epstein's objections to producing the materials.

On June 30, 2010, counsel for Epstein sent to counsel for the victims approximately 358 pages of e-mail correspondence between criminal defense counsel and the U.S. Attorney's Office regarding the plea agreement that had been negotiated between them. *See* Jane Doe #1 and Jane Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies, Attachment "A." These e-mails fully disclosed for the first time the extreme steps that had been taken by the U.S. Attorney's Office to avoid prosecuting Epstein and to avoid having the victims in the case learn about the non-prosecution agreement that had been reached between Epstein and the Government.

In mid-July 2010, Jane Doe #1 and Jane Doe #2 settled their civil lawsuits against Epstein. Then, armed with the new information, they turned to moving forward in the CVRA case. On September 13, 2010, the victims informed the Court that they were preparing new filings in the case.

On October 12, 2010, the Court entered an order directing the victims to provide a status report on the case by October 27, 2010. That same day, counsel for the victims again contacted the U.S. Attorney's Office about the possibility of reaching a stipulated set of facts in the case. That same day, the U.S. Attorney's Office responded: "*We don't have any problem with agreeing that a factual assertion is correct if we agree that is what occurred*" (doc. #41 at 2).

On October 23, 2010, the victims e-mailed to the U.S. Attorney's Office a detailed proposed statement of facts, with many of the facts now documented by the correspondence between the U.S. Attorney's Office and Epstein's counsel. The victims requested that the U.S. Attorney's Office identify which facts it would agree to. In a letter to the U.S. Attorney's Office, the victims stated:

If you believe that any of the facts they propose are incorrect, Jane Doe #1 and Jane Doe #2 would reiterate their long-standing request that you work with us to arrive at a mutually-agreed statement of facts. As you know, in the summer of 2008 Jane Doe #1 and Jane Doe #2 were working with you on a stipulation of facts when you reversed course and took that position that no recitation of the facts was necessary (*see* doc. #19 at 2). . . . I hope that your e-mail means that you will at least look at our facts and propose any modifications that you deem appropriate. Having that evidence quickly available to the Court could well help move this case to a conclusion.

That same day, the U.S. Attorney's Office agreed to forward the proposed statement of facts to the appropriate Assistant U.S. Attorney for review (doc. #41 at 2-3).

On October 26, 2010, rather than stipulate to undisputed facts, the U.S. Attorney's Office contacted the victims' attorneys and asked them to delay the filing of their motion for a two-week period of time so that negotiations could be held between the Office and the victims in an attempt to narrow the range of disputes in the case and to hopefully reach a settlement resolution without the need for further litigation. Negotiations between the victims and the U.S. Attorney's Office then followed over the next two days. However, at 6:11 p.m. on October 27, 2010 – the date on which the victims' pleading was due – the U.S. Attorney's Office informed the victims that it did not believe that it had time to review the victims' proposed statement of facts and advise which were accurate and which were inaccurate. The Office further advised the victims that it believed that the victims did not have a right to confer with their Office under the CVRA in this case because in its view the case is "civil" litigation rather than the "criminal" litigation (doc. #41 at 3).²

² In seeming contradiction to this position, on March 17, 2011, the U.S. Attorney's Office

As a result, purely as an accommodation to the U.S. Attorney's Office, on October 27, 2010, the victims filed a report with the Court in which they agreed to delay filing their motion and accompanying facts for up to two-weeks to see if negotiations can resolve (or narrow) the disputes with the U.S. Attorney's Office (doc. #41 at 4). Discussions with the U.S. Attorney's Office dragged on, including a meeting between Jane Doe #1 and the U.S. Attorney in December 2010.

After further discussions failed to produce any agreement or other visible progress, the victims informed the U.S. Attorney's Office that they would file their "summary judgment" motion with the Court on March 18, 2011 and requested further cooperation from the Office on the facts.

Ultimately, after months of discussion, the U.S. Attorney's Office informed counsel for the victims that – contrary to promises made earlier to stipulate to undisputed facts – no such stipulation would be forthcoming. Instead, on March 15, 2011, the U.S. Attorney for the Southern District of Florida, Wifredo A. Ferrer, sent a letter to the victims declining to reach any agreement on the facts:

Because, as a matter of law, the CVRA is inapplicable to this matter in which no federal criminal charges were ever filed, your requests for the government's agreement on a set of proposed stipulated facts is unnecessary and premature. That is, because whether the rights in 18 U.S.C. § 3771(a) attach prior to the filing of a charge in a federal court is a matter of statutory interpretation, resolution of that question is not dependent upon the existence of any certain set of facts, other than whether a charging document was ever filed against Jeffrey Epstein in the United States District Court for the Southern District of Florida. And while this Office remains willing to cooperate, cooperation does not mean agreeing to facts that are not relevant to the resolution of the legal dispute at issue

informed the victims that it would not be making any initial disclosures to the victims as required for civil cases by Fed. R. Civ. P. 26(a)(1). The U.S. Attorney's Office did not explain why they believe that this rule of civil procedure is inapplicable if they think this case is properly viewed as a "civil" case.

Letter from Wifredo A. Ferrer to Paul G. Cassell (March 15, 2011).³

Accordingly, the victims were left with no choice but to file a motion without stipulated facts. Contemporaneously with the filing of this motion, the victims are filing a comprehensive Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies. The motion contains the detailed set of facts which the victims have long been attempting to discuss with the government.

**THE COURT SHOULD RESOLVE THE CASE ON THE BASIS
OF THE VICTIMS' PROFFERED FACTS.**

In view of the deliberate decision by the U.S. Attorney's Office not to discuss with the victims which facts they are disputing, the Court should resolve this case on the basis of facts that the victims offer in their motion seeking a finding of violations of the CVRA. For more than 30 months, the victims have given the U.S. Attorney's Office repeated opportunities contest their facts, only to see the Office first commit to reviewing the facts, then later claim they did not have sufficient time to review the facts, and then ultimately renege on that commitment to review the facts. Indeed, the U.S. Attorney's Office now argues that the facts are "not relevant" to the court's determination. If so, the Court should take up the U.S. Attorney's Office's position and simply accept the facts that the victims proffer. If the U.S. Attorney's Office is correct that the facts are irrelevant, they should not be heard to object when the victims propose a specific set of facts for resolving this case.

³ To avoid any suggestion that the victims are disclosing confidential settlement discussions, we are not attaching a copy of this letter to this pleading. We believe, however, that this paragraph is relevant to the issue before the Court and have accordingly reproduced it. *See* Fed. R. Evid. 408(b) (while settlement discussions are generally inadmissible, they are permissible for purposes other than proving the validity of a claim).

The Court should also accept the victims' facts because the U.S. Attorney's Office has violated the local rules regarding stipulating to facts. Local Rule 88.10(O) contains a broad, commonsense provision requiring the parties to work together to reduce disputes over the facts: The Local Rule provides: "The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth or existence of which is not contested and the early resolution of which will expedite the trial." For more than two-and-a-half years, the victims have been trying to get the U.S. Attorney's Office to stipulate to uncontested facts. The U.S. Attorney's Office, however, promised to do so, then refused to do so, then promised to do so, and now finally is refusing to do so. Because its failure to try and reach a stipulation is a clear violation of the local rule, the Court should simply adopt the victims' facts.

The Court should also accept the victims' facts because the Government has failed in its duty to confer with the victims. Not only did this Court order counsel for the Government and the victims to confer at the conclusion of the July 11, 2008 hearing, but the Crime Victims' Rights Act specific afford to victims "[t]he reasonable right to confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). A fundamental part of conferring about a case would at least be learning what the Government agrees were the facts in the case. But the Government is apparently unwilling to do even that. Accordingly, the Court should simply find that the victims' understanding of the facts is correct and proceed to resolve this case on that basis.

CERTIFICATE OF CONFERENCE

As recounted above, the victims have repeated sought to learn which facts the Government is disputing, but the Government has declined to review the facts with the victims.

CONCLUSION

For all the foregoing reasons, the Court should resolve this case on the basis of the facts that the victims have offered.

DATED: March 21, 2011

Respectfully Submitted,

s/ Bradley J. Edwards
Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Telephone: [REDACTED]
Facsimile: [REDACTED]
Florida Bar No.: 542075
E-mail: [REDACTED]

and

Paul G. Cassell
Pro Hac Vice
S.J. Quinney College of Law at the
University of Utah
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: [REDACTED]
Facsimile: [REDACTED]
E-Mail: [REDACTED]

Attorneys for Jane Doe #1 and Jane Doe #2

CERTIFICATE OF SERVICE

The foregoing document was served on March 21, 2011, on the following using the Court's

CM/ECF system:

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401

Fax: [REDACTED]

E-mail: [REDACTED]

Attorney for the Government

Joseph L. Ackerman, Jr.
Fowler White Burnett PA
777 S. Flagler Drive, West Tower, Suite 901
West Palm Beach, FL 33401
Criminal Defense Counsel for Jeffrey Epstei
(courtesy copy of pleading via U.S. mail)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES
_____ /

**JANE DOE #1 AND JANE DOE #2'S MOTION FOR ORDER DIRECTING THE U.S.
ATTORNEY'S OFFICE NOT TO WITHHOLD RELEVANT EVIDENCE**

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to move for an order from this Court directing the U.S. Attorney's Office not to suppress material evidence relevant to this case. The Court should enter an order, as it would in other criminal or civil cases, requiring the Government to make appropriate production of such evidence to the victims.

BACKGROUND

In discussions with the U.S. Attorney's Office about this case, counsel for Jane Doe #1 and Jane Doe #2 inquired about whether the Office would voluntarily provide to the victims information in its possession that was material and favorable to the victims' case. Victims' counsel pointed out that, if they were criminal defense attorneys representing criminals, the Office would promptly turn over all information in its possession that was helpful to these criminals under *Brady v. Maryland*, 373 U.S. 83 (1963), and related decisions. Victims' counsel asked the Office to extend to the victims the same assistance that it would provide to criminal

defendants – i.e., to voluntarily provide to the victims information in its possession that was favorable to the victims' CVRA case.

In response, victims' counsel were informed by the Office that it could – and would -- withhold from the victims such information, apparently on the theory that the CVRA does not apply to these case or on the theory victims lack due process rights under the CVRA. The victims accordingly have been forced to file this motion, seeking an order from the Court directing the U.S. Attorney's Office to produce to the victims favorable information.

The victims are entitled to such information for four separate reasons. First, the U.S. Attorney's Office is statutorily-obligated to use it "*best efforts* to see that crime victims are . . . accorded[] the rights described in [the CVRA]." 18 U.S.C. § 3771(c)(1) (emphasis added). The Office flouts this best efforts obligation when it deliberately withholds favorable information from the victims.

Second, just as criminal defendants are entitled to receive favorable information in the Government's possession under due process rights, *see, e.g., Brady v. Maryland*, 373 U.S. 83 (1963), victims are entitled to receive favorable information under their CVRA "right to be treated with fairness," 18 U.S.C. § 3771(a)(8) – a right that clearly includes due process considerations. The U.S. Attorney's Office is not treating the victims with fairness if it withholds the very information that might enable them to prove their case.

Third, the U.S. Attorney's Office has obligations under the civil discovery rules to voluntarily provide information to the victims. *See* Fed. R. Civ. P. 26(a)(1) (initial disclosures in civil cases). The victims' action has been opened as a civil case, and the U.S. Attorney's Office has previously argued that it should be treated as a civil case. Proceeding on this basis, the

ordinary civil discovery rules apply and the U.S. Attorney's Office should disclose relevant documents "without awaiting a discovery request." Fed. R. Civ. P. 26(a)(1)(A).

Finally, a decision by the U.S. Attorney's Office to withhold information relevant to this case has serious ethical ramifications. The attorneys have a duty of candor to the Court. It is not immediately clear how the U.S. Attorney's Office can satisfy those obligations while concealing information that might enable the victims to prove their case.

For all these reasons, the Court should enter an order directing the U.S. Attorney's Office to produce to the victims all information in its possession favorable to the victims. A proposed order to that effect is attached to this pleading, largely tracking the standard discovery order that this Court routinely enters in criminal cases.

DISCUSSION

I. THE GOVERNMENT VIOLATES ITS "BEST EFFORTS" OBLIGATIONS IF IT WITHHOLDS EVIDENCE FAVORABLE TO THE VICTIMS.

The U.S. Attorney's Office is obliged to produce favorable information to the victims because of the CVRA's requirement that prosecutor use their "best efforts" to protect crime victims' rights. The CVRA directs that "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall *make their best efforts* to see that crime victims are notified of, and accorded, the rights described in [the CVRA]." 18 U.S.C. § 3771(c)(1) (emphasis added). It is hard to understand how the Government can argue with a straight face that it is using its "best efforts" to protect victims' rights while simultaneously withholding readily-identifiable documents from the victims that might allow them to protect those very rights. If a best efforts

obligation means anything, it must mean that the U.S. Attorney's Office cannot suppress favorable information.

This understanding of the best efforts obligation is confirmed by the plain meaning of the phrase "best efforts." That phrase is generally understood as requiring "[d]iligent attempts to carry out an obligation." BLACK'S LAW DICTIONARY 169 (8th ed. 2004). See generally E. Allen Farnsworth, *On Trying to Keep One's Promises: The Duty of Best Efforts in Contract Law*, 46 U. PITT. L. REV. 1, 8 (1984). As a result, "[b]est efforts are measured by the measures that a reasonable person in the same circumstances and of the same nature as the acting party would take." BLACK'S LAW DICTIONARY 169 (8th ed. 2004). A reasonable prosecutor who is obligated to work to "accord" crime victims their rights, 18 U.S.C. § 3771(c)(1), would not simultaneously deny victims access to the very evidence that could help them protect their rights. Put another way, an obligation to use "best efforts" is usually understood "in the natural sense of the words as requiring that the party puts its muscles to work to perform with full energy and fairness the relevant express promises and reasonable implications therefrom." *Stabile v. Stabile*, 774 N.E.2d 673, 676 (Mass. App. Ct. 2002). Here, far from putting its full energies towards protecting victims' their rights, the U.S. Attorney's Office is devoting its energies to blocking those rights. The cases construing "best efforts" language have routinely recognized that this language can create affirmative obligations to act. See, e.g., *Hughes Communications Galaxy, Inc. v. United States*, 26 Cl. Ct. 123, 135 (1992) ("A best efforts clause . . . can also affirmatively obligate."). Here, the action that is affirmatively required by the U.S. Attorney's Office is to produce readily-identifiable information that will assist the victims.

It is also important to recognize that the victims here are not seeking to force some kind of burdensome wild goose chase on the U.S. Attorney's Office. In their letter to the U.S. Attorney requesting relevant evidence, the victims offered to provide a list of specific items they were seeking: "To avoid burdening your Office, we would be happy to provide a specific list of the information that we believe is material to the victims' CVRA case – a limited amount of information that could be swiftly located by your Office." Letter from Bradley J. Edwards & Paul G. Cassell to Wifredo A. Ferrer, Mar. 1, 2011. The victims have, for example, requested that the U.S. Attorney's Office provide to them unredacted copies of correspondence between the U.S. Attorney's Office and Jeffrey Epstein. Through civil discovery from Epstein, the victims have obtained half of that correspondence – the words written by the U.S. Attorney's Office – but are lacking the other half – the words written in reply by Epstein's counsel. This correspondence specifically discusses crime victims' rights, so it is obviously quite material to the victims' case. The U.S. Attorney's Office could obviously provide this information without much difficulty. But instead, the Office has refused to provide to the victims *any* of the correspondence – or, indeed, any other similar information that might assist the victims.

For all these reasons, the Court should find that the Department's "best efforts" obligations require it to produce to the victims information favorable to the victims' case.

II. THE VICTIMS HAVE A DUE PROCESS RIGHT TO ACCESS TO FAVORABLE EVIDENCE UNDER THEIR CVRA "RIGHT TO BE TREATED WITH FAIRNESS."

The victims are also entitled to receive favorable evidence in the Government's possession for the same reason that criminal defendants receive such information: fundamental considerations of fairness require that the Government not deliberately withhold relevant

information contrary to its position in court. For criminal defendants, this principle traces back to the landmark decision of *Brady v. Maryland*, 373 U.S. 83, 87 (1963), in which the Court explained the production of exculpatory evidence is a principle designed for

avoidance of an unfair trial to the accused. Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly for the federal domain: "The United States wins its point whenever justice is done its citizens in the courts." A prosecutor that withholds evidence on demand of an accused which, if made available would tend to exculpate him or reduce the penalty helps shape a trial that bears heavily on the defendant. That casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice

Id. at 87-88. Of course, precisely the same points can be made here about production of evidence to crime victims. The Justice Department will "win its point if justice is done" to crime victims in this case – but justice can be done only if these proceedings are fair, in the sense that all relevant information is provided to the court. To have this case move forward with the prosecutors withholding material information is to truly cast them "in the role of an architect of a proceeding that does not comport with standards of justice."

To be sure, the victims in this case do not rely on a federal *constitutional* right to due process. But they have a parallel *statutory* right under the CVRA, which promises victims of crime that they will be "treated with fairness." 18 U.S.C. § 3771(a)(8). The clear intent of Congress in passing this provision was to provide a substantive "due process" right to crime victims. As one of the CVRA's co-sponsors (Senator Kyl) explained, "The broad rights articulated in this section [§ 3771(a)(8)] are meant to be rights themselves and are not intended to just be aspirational. One of these rights is the right to be treated with fairness. Of course, fairness includes the notion of *due process*. Too often victims of crime experience a secondary

victimization at the hands of the criminal justice system. This provision is intended to direct Government agencies and employees, whether they are in executive or judiciary branches, to treat victims of crime with the respect they deserve.” 150 CONG. REC. S4269 (Apr. 22, 2004) (emphasis added).

Because the CVRA extends a “due process” right to crime victims like Jane Doe #1 and Jane Doe #2, victims have a right to fair access to evidence to prove their case. The very foundation of the *Brady* obligation is such a notion of due process: “[T]he suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment.” *Brady v. Maryland*, 373 U.S. 83, 87 (1963). It would similarly violate due process – and thus not treat victims with “fairness” -- for the prosecution to suppress evidence favorable to a crime victim where the evidence is material either to proving a CVRA violation or to the remedy for a violation.

The *Brady* principles are well understood, and the Government does not have difficulty in providing favorable information to criminal defendants. For example, it is our understanding that such discovery was provided by the government to Jeffrey Epstein during the course of negotiations that led to the non-prosecution agreement in this case. If the Government’s obligations to see “that justice is done,” *Brady*, 373 U.S. at 87, requires it to produce helpful information to a sex offender, surely principles of fairness require the same kind of production to the sex offender’s victims when they are properly pursuing a contested case against the Government before this Court.

The familiar *Brady* principles are so commonplace that this Court routinely enters a “Standing Discovery Order” in criminal cases directing the Government to provide favorable

evidence to the defendant. The Order typically provides: “The government shall reveal to the defendant(s) and permit inspection and copying of all information and material known to the government which may be favorable to the defendant on the issues of guilty or punishment within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963), and *United States v. Agurs*, 427 U.S. 97 (1976).” *See, e.g.*, Standing Discovery Order, *United States v. Enriquez*, No. 1:10-CR-20488-MGC (July 9, 2010) (doc. #115). These Standing Discovery Orders follow from identical language in the local rule on these issues. *See* Local Rule 88.10.

Interesting, the Standing Discovery Order – and associated local rule 88.10(O) – contains a broad, commonsense provision which the Government has plainly violated in this case. The Order provides: “The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth or existence of which is not contested and the early resolution of which will expedite the trial.” For more than two-and-a-half years, the victims have been trying to get the Government to stipulate to undisputed facts, precisely as the Court’s rules envision. The Government, however, has refused to do so.

It is a simple matter to tailor the Standing Discovery Order from a situation involving a criminal defendant’s need for information to the current situation of a crime victim’s need for information. A proposed order to that effect is attached to this pleading, largely tracking the language of the Standing Discovery Order. The Court should enter that order. The Court has its own obligations to ensure that victims’ rights are protected. The CVRA directs that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights [described in the CVRA]” – rights that include a right to “be

treated with fairness.” *See* 18 U.S.C. § 3771(b)(1), (a)(8). The Court should ensure fair treatment for the victims by directing the Government to produce relevant evidence.

III. THE VICTIMS ARE ENTITLED TO DISCLOSURE UNDER THE FEDERAL RULES OF CIVIL PROCEDURE.

The victims are further entitled to receive information favorable to them under the rules civil procedure. The victims’ petition seeking to set aside the non-prosecution agreement has been opened as a civil case – as reflected in the case number the matter has borne for the last two-and-a-half years: 9:08-CV-80736-Marra/Johnson. Indeed, the Government has seized on this point to deny the victims rights that they would otherwise enjoy in a criminal case. For example, on October 27, 2010, the U.S. Attorney’s Office advised Jane Doe #1 and Jane Doe #2 that the Office was taking the position that they did not enjoy a right “to confer” with the Office under the CVRA, 18 U.S.C. § 3771(a)(5), in this enforcement action because the action was “civil” litigation rather than criminal litigation. *See* Doc. #41 at 1-2.

If the U.S. Attorney’s Office is correct that this matter is “civil” litigation, then the Federal Rules of Civil Procedure govern discovery. *See* Fed. R. Civ. P. 1 (“These rules govern the procedure in all civil actions and proceeding in the United States district courts . . .”).¹ Under those Rules, generous discovery is provided. Of particular relevance to this motion is the requirement under Fed. R. Civ. P. 26(a)(1)(A) that parties are automatically required produce relevant information to a case without waiting for a discovery request. In light of the Government’s position that this case is civil litigation, the victims have been making (and are

¹ Rule 1 note that there are certain limitations to application of the Civil Rules, found in Fed. R. Civ. P. 81. None of the limitations in Rule 81 (e.g., for bankruptcy and citizenship proceedings) apply in this case.

continuing to make) initial disclosures consistent with Rule 26(a)(1)(A). But the U.S. Attorney's Office has recently informed the victims that they do not believe that this Rule applies to their case and that they will not be making any such disclosures. Accordingly, the victims seek an order from the Court requiring the ordinary kinds of document production that are made in civil cases.

To order the Government to make such production, the Court need not engage in metaphysical ruminations about whether this CVRA enforcement action is ultimately a "civil" case or a "criminal" case. For purposes of this motion, it is enough to say that the Government has taken the position that it is a civil action and therefore the Government must at least carry through on the discovery obligations that attend civil cases.

Moreover, Congress clearly allowed the filing of this action in this Court. *See* 18 U.S.C. § 3771(d)(3) (allowing assertion of CVRA rights "in the district court in which a defendant is being prosecuted or, *if no prosecution is underway, in the district court in the district in which the crime occurred.*"). Congress did not specify whether such actions would be civil or criminal in nature. But Congress no doubt envisioned at least a minimum level of cooperation with victims by the Government. Congress, in fact, mandated prosecutors to make their "best efforts" to afford victims their rights. In a case such as this one where there is a dispute about the factual events surrounding, it makes sense to read the CVRA has at least giving victims access to information that might prove their case rather than permitting the Government to suppress such evidence. The Court should accordingly require the Government to make the disclosures that it would ordinarily make in a civil case. The proposed order attached to this pleading includes a provision to that effect.

IV. ALLOWING THE GOVERNMENT TO WITHHOLD RELEVANT EVIDENCE WOULD RAISE SERIOUS ETHICAL ISSUES.

On a final note, it is worth considering the ethical ramifications of the Government's stark position that it can withhold even relevant and material evidence from the victims in this case. Prosecutors, no less than other attorneys, have duties of candor to the Court that would not permit them to present evidence or testimony to the Court that is known to be false. Fla. Bar Rule 4-3.3(a)(4). Allowing the victims access to evidence favorable to their claim will insure compliance with this rule. Similarly, in an *ex parte* proceeding, a lawyer must inform the court of all material facts known to the lawyer that will enable the court to make an informed decision "whether or not the facts are adverse." Fla. Bar. Rule 4-3.3(d). If the U.S. Attorney's Office is correct that the victims are not entitled to access to favorable evidence, then the proceedings involving that evidence are essentially *ex parte* – requiring the Office to make disclosures to the Court with notice to the victims.

An illustration of this problem comes from the sworn declaration filed by one of the AUSA's in this case in support of the Government's response to the victims' petition. This sworn affidavit recounts a provision in the non-prosecution agreement that would have placed victims of Epstein's sexual abuse in "the same position as they would have been had Mr. Epstein been convicted at trial." Declaration of Marie Villafana, July 9, 2008 (doc. #14) at 3-4. The affidavit also goes on to say that "these provisions were discussed," *id.* at 4, apparently referring to this provision. *Id.* (noting that "as explained above" there was a remedy for crime victims). And the declaration notes that on July 9, 2008, the victims in this case (including Jane Doe #1) were notified about the existence of this provision.

On October 9, 2008, victims' counsel wrote to government counsel, pointing out that this declaration appeared to be (albeit inadvertently) false in two important respects. First, the quoted provision was not actually in the non-prosecution agreement. And second, if it was discussed with Jane Doe #1, for example, then that would have created false impression. Victims' counsel asked for a clarification to be filed with the Court about these two points. *See* Exhibit "A."

In response, on December 22, 2008, the government filed a supplemental declaration. Doc. #35. The corrective supplemental declaration addressed the first point, agreeing that the information was false. The supplemental declaration, however, did not address the second question of whether this false information had previously been discussed with the crime victims. Moreover, the supplemental declaration raised additional question about Epstein's role in the false information. The supplemental declaration states the Epstein's attorney's approved the transmission of false information to the victims on and about July 9, 2008. Doc. #35 at 2. But none of the underlying information regarding the approval of that false information is included in the supplemental declaration.

Rather than have the government serving as the exclusive conduit for information to the Court about these subjects, it seem more consistent with the spirit of the ethical rules – and with the general obligations of disclosure discussed previously in this pleading – for the Government to make available to the victims all material and favorable information. For example, the Government could provide to the victim the underlying correspondence with Epstein's attorneys approving the transmission of this false information. This information will be highly relevant to the victims' position that the non-prosecution agreement should be set aside in view of violations

of the victims' rights. The Court should accordingly order production of this and other similar favorable evidence to the victims.

CERTIFICATE OF CONFERENCE

As recounted above, counsel for Jane Doe #1 and Jane Doe #2 have repeatedly requested that the U.S. Attorney's Office voluntarily stipulate to undisputed facts in this case and provide material information favorable to the victims case for more than two and a half years. The U.S. Attorney's Office, however, takes the position that the victims are not entitled to any such information.

CONCLUSION

For all the foregoing reasons, the Court should order the U.S. Attorney's Office to produce information favorable to the victims. A proposed order to that effect is attached.

DATED: March 21, 2011

Respectfully Submitted,

s/ Bradley J. Edwards
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Attorneys for Jane Doe #1 and Jane Doe #2

CERTIFICATE OF SERVICE

The foregoing document was served on March 21, 2011, on the following using the Court's

CM/ECF system:

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401

Fax: [REDACTED]

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Joseph L. Ackerman, Jr.
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Criminal Defense Counsel for Jeffrey Epstein
(courtesy copy of pleading via U.S. mail)



October 9, 2008

Dexter Lee, AUSA
United States Attorney's Office
99 N.E. 4th Street
Miami, Florida 33132

Re: Jane Doe # and Jane Doe #2 v. United States of America
Case No.: 08-80736-CIV-MARRA/JOHNSON

Dear Mr. Lee:

I am writing to call to your attention two potentially false statements that the Government made, albeit inadvertently, in a sworn declaration submitted to the Court in connection with the above-captioned case. I request that your office file a corrected declaration and accompanying explanation.

The first statement is found at page 3 to 4 of the July 9th, 2008 declaration of Marie Villafañá. There a provision in a plea agreement with Mr. Jeffrey Epstein is recounted. As we understand the Government's current position in this case, it is that this provision is not in fact part of the plea agreement in this case. If our understanding is correct, then Ms. Villafañá has filed a false affidavit with the court, albeit inadvertently. We respectfully request that she file a new affidavit that corrects this false information, along with all other information relevant to understanding how the false information came to be provided to the court – and to the victims in this case. This correction should, in my view, include more details about how Epstein and his attorneys approved a submission of false information to the victims as you stated on Page 5, n.2 in your October 8, 2008 filing "Respondent's Opposition to Victims' Motion to Unseal Non-Prosecution Agreement" – presumably knowing that litigation surrounding the victims' rights issues was on-going and that such false information might be ultimately presented to the court. Such information is highly relevant to what remedy the victims might ultimately choose to seek for violations of their rights in this case.

The second statement may or may not be false, but may need some clarification. At page 4 of Ms. Villafañá declaration, she states that "[i]n October 2007, shortly after the agreement was signed, four victims [including C.W.] were contacted and *these provisions were discussed*" (emphasis added). Similarly at page 5, the declaration states: "After C.W. had been notified of the *terms of the agreement*" (emphasis added). I write to inquire whether, in view of the fact that the provision noted above is not in fact (according to the Government's current view) part of the plea agreement, whether this was the provision that the government (inaccurately) discussed with the victims. Put another way, I am wondering whether the Government will now stipulate that it, at most, discussed with the victims a provision in the plea agreement that never was actually part of the plea agreement.

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: [REDACTED]
FAX: [REDACTED]

Dexter Lee, AUSA
United States Attorney's Office
October 9, 2008
Page Two

I continue to be interested in working out a joint stipulation of proposed facts in this case with the Government. If you would like to proceed in that direction, please give me a call. If, however, the Government is not willing to work out a joint stipulation of facts, then I need to have the record be as clear as possible, and at a minimum would request that the Government correct the inaccurate information it has provided to the court and clarify precisely how such inaccurate information came to be made a part of the record and the extent to which Mr. Epstein, through his attorneys, was culpable.

Sincerely,



Brad Edwards

BE/sg

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: [REDACTED]
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES
_____ /

**[PROPOSED] ORDER GRANTING JANE DOE #1 AND JANE DOE #2'S MOTION FOR
ORDER DIRECTING THE U.S. ATTORNEY'S OFFICE NOT TO WITHHOLD
RELEVANT EVIDENCE**

THIS CAUSE comes before the Court on Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence, filed March 21, 2011.

It is ORDERED AND ADJUDGED that the Motion is GRANTED.

1. The government shall reveal to the victims and permit inspection and copying of all information and material known to the government which may be "favorable" to the victims, *see Brady v. Maryland*, 373 U.S. 83 (1963) (discussing evidence "favorable" to defendants); *United States v. Agurs*, 427 U.S. 97 (1976) (same), on issue of possible violations of their rights under CVRA and remedy for such violations, including any impeachment information under *Giglio v. United States*, 405 U.S. 150 (1972).
2. The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite the proceedings.

3. The parties shall make to each other the disclosures required under Fed. R. Civ. P. 26(a)(1)(A).

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida,
this ___ day of March, 2011.

KENNETH A. MARRA
United States District Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANDE DOE #2

v.

UNITED STATES
_____ /

**JANE DOE #1 AND JANE DOE #2'S MOTION TO USE CORRESPONDENCE TO
PROVE VIOLATIONS OF THE CRIME VICTIMS' RIGHT ACT AND TO HAVE
THEIR UNREDACTED PLEADINGS UNSEALED**

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to move this Court to allow use of correspondence between the U.S. Attorney's Office and counsel for Jeffrey Epstein to prove violations of the Crime Victims' Rights Act. Because this Court has already ruled that the correspondence is not privileged – and because it is highly relevant to the victims' case – the motion should be granted. The victims' unredacted pleading quoting the correspondence should also be unsealed, particularly in light of the intense, international public interest in Epstein's controversial plea deal.

BACKGROUND

As the Court is aware, beginning 2008, Jane Doe #1 and Jane Doe #2 pursued civil litigation against Jeffrey Epstein for sexually abusing them. During the course of that litigation, in June 2001, they obtained correspondence between the U.S. Attorney's Office and Jeffrey Epstein's legal counsel. Jane Doe #1 and Jane Doe #2 ultimately settled their civil suits in July 2010. During the settlement discussions, they informed Epstein's legal counsel that they would

be using the correspondence in this CVRA action. Epstein requested advance notice of such filing. Jane Doe #1 and Jane Doe #2 saw no basis for any objection to their using the materials, but agreed to give advance notice to Epstein so that he could make whatever arguments he wished. Accordingly, as part of their settlement, the victims agreed with Epstein that they would file under seal the correspondence so that Epstein would have an opportunity to object if he so desired:

Counsel for [Jane Doe #1 and Jane Doe #2] have received, as part of discovery in this lawsuit, certain correspondence between Epstein's agents and federal prosecutors. [Jane Doe #1 and Jane Doe #2] may desire to use this correspondence to prove a violation of [their] right to notice by the government and to be treated with fairness, dignity, and respect during criminal investigations and prosecutions under the Crime Victims' Rights Act (CVRA), 18 U.S.C. section 3771, and to seek remedies for any violation that [they] may prove. The parties agree that Epstein will receive at least seven days advance notice, in writing, of intent to so use the correspondence in any CVRA case . . . [Jane Doe #1 and Jane Doe #2] agree to . . . file the documents . . . under seal until a judge has ruled on any objection that Epstein may file."

On August 26, 2010, Jane Doe #1 and Jane Doe #2 provided the specified advance notice to Epstein of their intent to use the correspondence. The notice specifically covered this CVRA action:

[A]s you know, there is currently pending before Judge Marra a case filed under the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771, in which two victims of sexual assault by [you] allege they were deprived of their rights under the Act. For example, the victims allege that there were deprived of notice of pending plea bargain arrangements and an opportunity to be heard as well as the right to meaningfully confer with prosecutors. The correspondence provided to us is compelling evidence in support of their claims, as it demonstrates that federal prosecutors were conducting plea discussions with Epstein months before they alerted the victims to any possible plea bargain. The correspondence also demonstrates a willful plan to keep the victims in the dark about the plea discussions. In light of these facts, we intend to make use of this correspondence in the [CVRA] . . . lawsuit[]

Letter from Bradley J. Edwards to Robert D. Critton, Jr., Case No. 9:08-CV-80893, Doc. #214 (attachment 2).

On September 2, 2010, Epstein filed a motion for a protective order, seeking to bar disclosure of the U.S. Attorney's correspondence in both a pending state court case and the CVRA case. Case No. 9:08-CV-80893, Doc. #214.

On September 13, 2010, Jane Doe #1 and Jane Doe #2's responded, explaining that Epstein had already litigated – and lost – the claim that the information was somehow protected. They also explained that Epstein could not object to use of the information in the CVRA case unless he intervened in the CVRA case. Doc. #217.

One day later, on September 14, 2010, the Court (Magistrate Judge Johnson) denied the motion for a protective order. Doc. #218. The Court explained that “[t]he Court agrees with [Jane Doe] . . . that if [Epstein] believes he has a valid basis for preventing disclosure of the subject documents in the subject state court proceeding, he should file a motion to that effect in the appropriate state court.”

On September 28, 2010, Epstein filed an appeal of the Magistrate Judge's order. Epstein argued that because the Magistrate Judge had ruled so rapidly, he had been precluded from filing a reply brief.

On October 7, 2010, Jane Does' legal counsel filed a response (Doc. #221), explaining that no basis existed for barring use of the documents and that, in any event, Epstein needed to intervene in the CVRA case if he was going to have standing to object to use of the documents there.

On October 20, 2010, this Court (Marra, J.), entered an order (Doc. #222) remanding to the magistrate judge to give Epstein an opportunity to file a reply brief.

On November 1, 2010, Epstein filed a reply to the response to his motion for protective order. Doc. #223.

On January 5, 2011, this Court (Johnson, J.) entered an order (Doc. #226) resolving Epstein's objection. The Order began by stating: "To the extent Epstein's Counsel ask the Court to find the subject correspondence privileged and on that basis prohibiting Plaintiffs' Counsel from disclosing it in either of the two proceedings, said request is denied." *Id.* at 3. The Order, however, indicated that Jane Does' counsel should file the correspondence under seal with "the appropriate institution" so that the institution could "make the determination of admissibility as it relates to their respective cases." *Id.* at 3.¹

DISCUSSION

I. JANE DOE #1 AND JANE DOE #2 SHOULD BE PERMITTED TO USE THE CORRESPONDENCE, AS IT IS HIGHLY RELEVANT TO THEIR CASE.

Under the Magistrate Judge's Order, Jane Doe #1 and Jane Doe #2 are directed to submit the correspondence to "the appropriate institute" for a "determination of admissibility." The victims have done that, filing only a redacted version of their pleading in the public court file,

¹ At one point, the Magistrate Judge appeared to think that the "appropriate institution" for the CVRA was the Justice Department, as the Magistrate Judge thought that Jane Doe was proceeding by way of an "internal Justice Department Complaint procedure." Of course, Jane Doe is not proceeding here by way of the internal Justice Department procedure, but rather the statutorily authorized procedure for filing a motion in the district court. *See* 18 U.S.C. § 3771(d)(3).

submitting an unredacted version to the Court. The victims have also submitted all of the correspondence to the Court under seal as well.

The only remaining issue for the Court under the Magistrate Judge's Order is a "determination of admissibility as it relates" to the CVRA case. The correspondence is plainly admissible, as it is highly relevant to the victims' argument that the Justice Department has intentionally concealed the existence of the non-prosecution agreement from them. The correspondence specifically shows that the U.S. Attorney's Office reached a firm non-prosecution agreement with Epstein in September 2007, but subsequently deliberately decided to conceal the existence of that agreement from the victims. The correspondence further shows that the U.S. Attorney's Office was aware of its statutory obligation to inform the victims of the non-prosecution agreement. Indeed, some of the correspondence involves specific discussion of the CVRA and victim notices.

All relevant evidence is admissible. *See* Fed. R. Evid. 402. Relevant evidence is "broadly defined," *United States v. Glasser*, 773 F.2d 1553, 1560 (11th Cir. 1985), as evidence that has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probably or less probable than it would be without the evidence." Fed. R. Evid. 401. Much of the correspondence bears directly on points that the U.S. Attorney's Office has already discussed in its pleadings. The Government's Response to the Victim's Petition, for example, contains an extensive discussion of the background of the investigation, the plea negotiations, and the U.S. Attorney's Office's understanding of its obligations under the CVRA. *See* Government's Resp. to Victim's Emergency Petition for Enforcement of Crime Victims Rights Act at 3-6 (doc. #13) (citing Declaration of Asst. U.S.

Attorney Marie Villafaña). These same subjects were also discussed at length at the Court's July 11, 2008, hearing on the matter. *See, e.g.*, Tr. July 11, 2008, at 3-4, 18-19, 22-29. The correspondence provides far more detailed information on this subject than was previously available to the victims. More important, the correspondence also shows a concerted effort by the U.S. Attorney's Office and Epstein to conceal the non-prosecution agreement from the victims.

The victims should therefore be allowed to use the correspondence, as it sheds important light on the events surrounding the non-prosecution agreement, which are central to the victims' arguments that the U.S. Attorney's Office violated their rights.

II. THE VICTIMS' PLEADINGS SHOULD BE UNSEALED.

The victims' pleadings should also be unsealed. The victims have, of course, filed only a redacted version of their pleading in the court public file, thereby ensuring full compliance with the Court's order that they give Epstein a chance to object. But there is no underlying reason for sealing of these documents. The Court has already ruled that the correspondence is not privileged. Accordingly, no good reason exists for keeping the pleadings confidential, and accordingly they should be made part of the Court's public file.

In addition, no sealing order could be justified in this case. The Eleventh Circuit has instructed that the district courts must make substantial findings before sealing records in cases before it. For instance, in *United States v. Ochoa-Vasque*, 428 F.3d 1015 (11th Cir. 2005), it reversed an order from this Court that had sealed pleadings in a criminal case, emphasizing the importance of the public's historic First Amendment right of access to the courts. To justify

sealing, “a court must articulate the overriding interest along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.” *Id.* at 1030.

Here there is no overriding interest in keeping the pleadings secret. To the contrary, there is an overriding interest in having these matters exposed to public light. There is considerable public interest in the question of how a serial pedophile could arrange such a lenient plea agreement with the U.S. Attorney’s Office. There has long been suspicion that Jeffrey Epstein was receiving favorable treatment in the criminal investigation because of his wealth and power. *See, e.g.,* Abby Goodnough, *Questions of Preferential Treatment Are Raised in Florida Sex Case*, N.Y. TIMES, Sept. 3, 2006, at 19 (noting questions that the public had been left “to wonder whether the system tilted in favor of a wealthy, well-connected alleged perpetrator and against very young girls who are alleged victims of sex crimes”). Indeed, the interest in the matter is strong enough that the widely-viewed television program *Law and Order: Special Victim Unit* devoted an episode to it last month, suggesting in its plot that federal government had intervened improperly to prevent effective prosecution. *See* *Law & Order Commemorates Jeffrey Epstein's Taste for Teen Hookers*, <http://gawker.com/#!5751094/law--order-commemorates-jeffrey-epsteins-taste-for-teen-hookers>. Also, there is strong current media interest in the case. “British tabloids have gone berserk the past two weeks with the growing scandal over the friendship that Prince Andrew, 51, fourth in line for the throne, has maintained with the multimillionaire, a registered sex offender [Jeffrey Epstein].” Jose Lambiet, *Prince's Friendship with Pedophile Causes Furor Across the Pond*, PALM BEACH POST, Mar. 9, 2011, at 2B. There are also current reports that the FBI is reopening its investigation into the matter. *See* Sharon Churcher, *FBI Will Reopen Case Against Prince's Friend*, SUNDAY MAIL (UK), Mar. 6, 2011.

Of course, the Court is not being asked in this pleading to decide the wisdom of the non-prosecution agreement entered into by the U.S. Attorney's Office. The public can make up its own mind on that subject – but only if it is allowed to review the facts surrounding the negotiation of the agreement and the treatment of crime victims during the negotiation process. The Court should accordingly unseal the victims' pleading.

III. EPSTEIN HAS NO "STANDING" TO RAISE ANY OBJECTIONS WITHOUT INTERVENING IN THE CVERA CASE.

As a courtesy to Epstein, we have provided copies of all these pleadings to defendant Epstein. It should be noted, however, that while Epstein is well aware of this CVRA action, he has chosen not to intervene. *Cf.* Fed. R. Civ. P. 24 (providing procedures for intervention). Without intervening in the case, he cannot raise any objections to use of the correspondence in this case – or to any relief that the Court might grant to the victims.

The victims have no objection to Epstein intervening in this case – at this time. If, however, Epstein delays intervention until after a reasonable period of time, the victims will argue that his motion to intervene is untimely. The victims will argue that any attempted intervention by Epstein after the date on which the Government must respond to the victims' motion for a finding of violation of the CVRA is untimely, as that is when the victims must begin drafting reply pleadings. *See United States v. Jefferson County*, 720 F.2d 1511, 1516 (11th Cir. 1983) (listing factors to be considered in determining whether motion to intervene is timely).

CERTIFICATE OF CONFERENCE

The Government has no objection to the motion to unseal. On August 26, 2010, Epstein was given notice of the victims' intent to use these materials in this case. He has yet to intervene in this case, let alone interpose any objection in this case.

CONCLUSION

For all the foregoing reasons, the Court should allow Jane Doe #1 and Jane Doe #2 to use the U.S. Attorney's correspondence in this CVRA action. The Court should therefore unseal the victims redacted pleading, entering the full pleading – and the attached correspondence – as publicly accessible records.

DATED: March 21, 2011

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The foregoing document was served on March 21, 2011, on the following using the Court's

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