



Select '**Print**' in your browser menu to print this document.

Copyright 2011. ALM Media Properties, LLC. All rights reserved. Daily Business Review
Page printed from: [Daily Business Review](#)

[Back to Article](#)

Jeffrey Epstein's attorneys fight to keep plea discussions private

John Pacenti
2011-04-21 12:00:00 AM

Miami attorney Roy Black and two other high-profile attorneys who represented billionaire sex offender Jeffrey Epstein have asked a federal judge to prohibit two alleged victims from obtaining correspondence between the defense team and federal prosecutors who hammered out a nonprosecution agreement.

The two women identified in court papers only as Jane Doe 1 and Jane Doe 2 say the agreement should be invalidated because they were not adequately informed of the plan not to file federal charges against Epstein.

The defense attorneys' motion to intervene states the sanctity of plea talks would be undermined if U.S. District Judge Kenneth Marra in West Palm Beach allows the correspondence to be used in the third-party civil action brought by the alleged victims.

New York litigator Jay Lefkowitz and Boston criminal defense attorney Martin G. Weinberg joined Black in the motion filed April 7.

The fight over the records comes amid claims that the defense strong-armed prosecutors into a cushy deal for Epstein.

"The release of these letters and the precedent it would establish would have a severe chilling effect on the lawyers' ability to engage in candid settlement discussions with the government in future cases," the 13-page motion reads. "Indeed, to the extent such written correspondence is deemed discoverable by third parties, criminal defense attorneys and the government's lawyers alike would lose the ability to negotiate such agreements."

The alleged victims maintain evidence shows Epstein molested more than 30 girls from 2001 to 2007, luring them to his Palm Beach mansion on the pretext of giving him a massage.

As part of the nonprosecution agreement, he pleaded guilty to a state charge of soliciting sex with a minor and

served 13 months of an 18-month sentence. He resurfaced recently in New York and has become the subject of news reports about socializing with Britain's Prince Andrew.

Personal Inquiry

The women say the nonprosecution agreement should be scuttled and Epstein should be open to federal charges because they were not adequately consulted as required under the Crimes Victims Rights Act. They seek disclosure of all correspondence between Epstein's attorneys and the government, claiming it would show prosecutors failed to meet their obligation to keep them and other victims informed.

The U.S. attorney's office argued in a 54-page response April 8 to the women's lawsuit that the law does not apply because no federal charges were filed against the financier, only a state charge.

The women were denied access to the letters in their civil lawsuit against Epstein, which was settled. The motion by Black, Lefkowitz and Weinberg said there is "no doubt" the women aim to disseminate the material to news outlets. They urge Marra to "decline the invitation to fuel the media campaign against Mr. Epstein."

Epstein has had plenty of trouble avoiding the media of late. Reports about his friendship with Prince Andrew sparked a March 20 three-page letter from Alex Acosta, U.S. attorney when the agreement was reached, to the Daily Beast online news site.

Acosta said the federal government intervened in Epstein's case at request of police because the Palm Beach state attorney's office was going to offer him a deal with no jail time. Acosta said his office secured, through the nonprosecution agreement, jail time for Epstein, his plea to a sex crime against a minor and his designation as a sex offender.

Acosta's letter said Epstein's defense team was not happy with these conditions and tried to hire private investigators to delve into the personal lives of prosecutors assigned to the case as a way of undermining the office's insistence on conditions that went beyond the state case.

"Defense counsel investigated individual prosecutors and their families, looking for personal peccadilloes that may provide a basis for disqualification," Acosta wrote.

Sources say the efforts targeted Assistant U.S. Attorneys Jeffrey Sloman and Ann Marie Villafaña. Acosta refused to remove them.

Acosta, now the law dean at Florida International University in Miami, said he had no comments beyond his letter. The U.S. attorney's office also declined to comment.

Sloman, who took over as acting U.S. attorney when Acosta became FIU's law dean, later joined the Ferraro Law Firm in Coral Gables, said only, "Alex's recollection is correct."

Black, in an interview with the Daily Business Review, denied Acosta's assertions that the Epstein defense team examined the prosecutors.

"We don't investigate prosecutors," he said. "As far as I know that wasn't done."

Black also denied there was any effort to pressure the U.S. attorney's office to back off Epstein.

"It is absurd to say that the target of a federal criminal investigation could put undo pressure on the United States, the government, the Department of Justice, the U.S. attorney's office and the FBI," Black said.

Weinberg, who challenged a Justice Department policy of seizing e-mail through secret subpoenas to Internet service providers, also said to his knowledge no private investigator was hired. Lefkowitz, a partner at Kirkland & Ellis in New York who drafted President George W. Bush's policy on stem cell research, did not return a phone call for comment by deadline. Black and Weinberg said they still represent Epstein.

Fodder For Litigation

The motion to intervene does not claim the letters are attorney-client privilege and makes a point of saying Epstein reserves his right to intervene individually.

Weinberg said turning the confidential correspondence over to the Jane Does would violate the federal rules of evidence and cast a chill over the criminal defense bar, which would rightly be concerned that anything they tell the government could boomerang into civil litigation against clients.

"Neither party expected or believed these letters would later become a source of information that would be used for any other purpose," Weinberg said. "We believe the issue raised before Judge Marra has importance beyond just the litigation between the government and the Jane Does."

Bradley J. Edwards, a partner with Farmer Jaffe Weissing Edwards Fistos & Lehrman in Fort Lauderdale, represents the Jane Does. He didn't want to get into his planned response to the motion to intervene but said Acosta's letter will not affect the case.

Edwards agreed with Acosta that the Palm Beach state attorney's office faltered on the Epstein case. A call to the Palm Beach State Attorney's Office spokeswoman was not returned by deadline.

"There has never been a stronger case for the state to prosecute, and the case should have been prosecuted by the state," Edwards said. "The state totally dropped the ball, but once the feds took the case over, they too unfortunately dropped the ball."

Edwards refutes Acosta's position that the U.S. attorney's office was hampered by the lack of a clear "interstate nexus" required for federal prosecution. Evidence indicates Epstein flew on his private plane out of state with the intent to engage in sex with minors and used his telephone, a means of interstate commerce, to set up his rendezvous with underage girls, Edwards said.

Edwards contends the U.S. attorney's office caved.

"They identified a bunch of victims of sexual abuse and decided to align themselves with a bad guy and keep the victims in the dark about the secretive nonprosecution agreement they were giving to Epstein," he said.