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Palm Beach Daily News (FL)

## JUDGE RECEIVES EPSTEIN TAPE RULING PENDING

MICHELE DARGAN, Daily News Staff Writer

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NEW YORK -- A Manhattan federal judge Tuesday took into custody a tape-recorded conversation between veteran newspaper reporter George Rush and convicted sex offender Jeffrey Epstein. But U.S. District Judge Lawrence M. McKenna reserved ruling on whether the recording will be released to attorneys representing young women who were sexually abused by Epstein as minors. McKenna didn't listen to the recording during the hearing. Fort Lauderdale attorney Brad Edwards and Utah attorney and law professor Paul Cassell are fighting to obtain the 22-minute tape on behalf of Epstein victim Jane Doe. She has filed one of a dozen pending civil cases in federal court in West Palm Beach against Epstein. A status check is set for Thursday in those cases before U.S. District Judge Kenneth Marra. Doe could have settled the lawsuit for \$50,000 but is asking for \$50 million in damages, Cassell said Tuesday. "Jane Doe was repeatedly sexually assaulted over a lengthy period of time by this wealthy and powerful man," Cassell said.

Epstein, 57, is currently under house arrest in his Palm Beach home after serving 13 months of an 18-month state sentence for soliciting a minor for prostitution and soliciting prostitution. Nearly two dozen young women have filed lawsuits against the billionaire money manager -- some already settled -- all alleging Epstein sexually abused them as minors at his El Brillo Way home.

Cites reporter's protected privilege

Rush, of the New York Daily News, was present in the courtroom, but did not have to testify Tuesday. Neither did Fort Lauderdale private investigator Michael Fisten, also in the courtroom. Working on behalf of Epstein victims, Fisten discovered the existence of the tape and had a conversation with Rush about its contents.

Representing Rush and the newspaper, Washington attorney Laura Handman and New York Daily News attorney Anne Carroll argued the tape should not be released under any circumstances, citing reporter's protected privilege. Rush told Epstein the conversation was "off the record" and has never published any portion of that conversation. But even if portions had been printed, the unpublished portions would still be protected, Handman said.

Handman cited cases where interviews were conducted in the presence of other people and privilege was not waived.

In addition, Handman argued that Rush should not have to testify in court.

The ability for reporter's privilege to be protected is crucial in culling sources and gathering information for news stories, Handman said. Reporting is all about give and take between the reporter and the source; that's what reporters have to do, Handman said.

"This is so critical to news gathering," Handman said. "Mr. Rush could find himself testifying in [many] cases just because he had the temerity to do some reporting on a very important story."

There is nothing helpful to Doe's case on the tape and "Jane Doe is not referred to once in that tape," Handman said.

Cassell argued that the tape is "critical in showing Epstein's lack of remorse."

Cassell described Epstein as a pitiless sexual abuser to Jane Doe and at least 30 other minor girls. Even though Jane Doe is not referred to by name on the tape, Epstein refers to his victims as "the girls" and makes disparaging remarks about them on the tape, Cassell said.

Tape played for others

Cassell said privilege does not apply because it was waived when Rush played the tape for three people and verbally divulged its contents to two others, including Fisten and Edwards, who also represents two other victims. But even if there is "qualified privilege," Cassell says, it is outweighed by Doe's inability to obtain the information anywhere else and the jury's need to hear Epstein's own words about his lack of remorse.

Since Epstein has exercised his Fifth Amendment right during questioning by victims' attorneys, the jury

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will have no other way to hear Epstein's words in his own voice, Cassell said.  
Deadline for discovery in the Doe case is May 31, with the trial set for July 14.  
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