

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80804-CIV-MARRA/JOHNSON

**JANE DOE, a/k/a,
JANE DOE NO. 1,**

Plaintiff,

vs.

**JEFFREY EPSTEIN, HALEY
ROBSON, and SARAH KELLEN,**

Defendants.

**PLAINTIFF'S MOTION TO PRESERVE EVIDENCE
AND EXPEDITE CERTAIN DISCOVERY**

Plaintiff Jane Doe moves, pursuant to Rules 26 and 34 to Preserve Evidence and Expedite the Discovery of this Evidence and states:

1. Defendants removed this action to federal court on July 21, 2008. (DE 1).
2. Plaintiff has filed a motion to remand on August 18, 2008. (D.E. 11).
3. It has come to the attention of Plaintiff's counsel that on July 21, 2008, Defendant JEFFREY EPSTEIN filed a Motion with the Florida State Court to return the evidence seized at his home in conjunction with his criminal prosecution. (Ex. 1).
4. This evidence is relevant and critical to the prosecution of not only the instant claim, but for six (6) other claims filed against Defendant EPSTEIN, including but not limited to the Florida RICO claims filed in State Court.

WHEREFORE, Plaintiff respectfully request the Court grant her Motion to Preserve of all of the seized Evidence identified in Ex. A, to Exhibit 1 of this Motion (Palm Beach Police Department Property Receipt) should it be Returned to EPSTEIN by the State Court, and

expedite the duplication of this evidence immediately upon its return, in advance of any Rule 26 conference.

MEMORANDUM OF LAW

Pursuant to Rules 26, 30 and 34, of the Federal Rules of Civil Procedure, this court has the authority to modify the normal time limitations under the Rules. *See AT&T Mobility LLC v. Dynamic Cellular Corp.*, 2008 WL 2139518 (S.D. Fla. 2008); *see also Tracfone Wireless, Inc. v. King Trading, Inc.*, 2008 WL 918243 (N.D. Tex. 2008). Additionally, when there is a good faith belief that evidence may be lost the Court has the authority to enter an Order preserving such evidence. *Id.* at 1. An injunction is not required, nor are the elements of an injunction necessary before entering an Order preserving such evidence. *Id.* at 2.

Given that Defendant EPSTEIN has plead guilty and is currently serving a year in jail based on the charges which form the foundation of Plaintiffs (and many other Plaintiffs') claims, it is reasonable to assume the State's seized evidence is extremely harmful to Defendant EPSTEIN. As a result, without a Protective Order Defendant EPSTEIN has no reason to keep or maintain this negative evidence. Plaintiff has put Defendant EPSTEIN on notice that this evidence is relevant to the instant action and any destruction could potentially constitute spoliation. If this evidence were destroyed Plaintiff would be severely prejudiced.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

On August 21, 2008, undersigned counsel conferred with counsel for the Defendants in a good faith effort to resolve the issues raised in this motion, and Defendants' counsel advised that Defendants oppose this motion.

s/ Spencer T. Kuvin
Spencer T. Kuvin (Florida Bar Number 089737)

Certificate of Services

I hereby certify that on August 13, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Spencer T. Kuvin

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SERVICE LIST

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United States District Court, Southern District of Florida

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