

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JANE DOE NO. 2,

CASE NO.: 08-CV-80119-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 3,

CASE NO.: 08-CV-80232-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 4,

CASE NO.: 08-CV-80380-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 5,

CASE NO.: 08-CV-80381-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

JANE DOE NO. 6,

CASE NO.: 08-CV-80994-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

JANE DOE NO. 7,

CASE NO.: 08-CV-80993-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

C.M.A.,

CASE NO.: 08-CV-80811-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

JANE DOE,

CASE NO.: 08-CV-80893-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. II,

CASE NO.: 08-CV-80469-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 101,

CASE NO.: 09-CV-80591-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 102,

CASE NO.: 09-CV-80656-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

PLAINTIFFS JANE DOE NO. 101 and JANE DOE NO. 102'S
MOTION FOR NO-CONTACT ORDER

Plaintiffs, Jane Doe No. 101 and Jane Doe No. 102 (together, the "Plaintiffs") hereby move this Court for a No-Contact Order directed to Defendant, Jeffrey Epstein, and, as grounds, state as follows:

1. After investigations by the Palm Beach Police Department, the Palm Beach State Attorney's Office, the Federal Bureau of Investigation, and the United States Attorney's Office for the Southern District of Florida (the "USAO"), Defendant, Jeffrey Epstein, in June 2008, entered pleas of "guilty" in the Fifteenth Judicial Circuit in Palm Beach County, Florida, to various Florida state crimes involving the solicitation of minors for prostitution and the procurement of minors for the purposes of prostitution.

2. During the course of Defendant's state plea conference of June 30, 2008, Palm Beach Circuit Court Judge Deborah Dale Pucillo ordered Defendant "not to have any contact, direct or indirect" with any victims. (Transcript of the Plea Conference at 20, relevant pages attached hereto as Exhibit A). Judge Dale Pucillo went on to clarify that, by "indirect," she meant that Defendant should not send any text messages, e-mails, Facebook contact, My Space contact, telephone calls, voicemails, or messages through third parties to "any of these victims." *Id.* Judge Dale Pucillo expressly stated that the no-contact order should apply to "all of the victims." *Id.*

3. In addition, after Defendant entered into a non-prosecution agreement with the USAO, Assistant United States Attorney Marie Villafaña provided Defendant's attorneys with a list of individuals whom the USAO had identified as victims of child sex exploitation as defined in 18 U.S.C. § 2255 (the "USAO List"). The USAO was prepared to indict Defendant based upon Defendant's sexual exploitation of these minor victims. It was the intent of the USAO to place these identified victims in the same position as they would have been had Defendant been

convicted at trial. Thus, upon information and belief, AUSA Marie Villafaña and Mr. Michael Tein, former counsel for Defendant, along with Mr. Jack Goldberger, who still represents Defendant, entered into a verbal agreement at the time AUSA Villafaña provided the USAO List to them, whereby neither Defendant, Jeffrey Epstein, nor his agents would have any direct or indirect contact with the victims named on the USAO List.

4. Nevertheless, during a March 25th meeting with Defendant's counsel, Defendant's counsel told Plaintiffs' counsel that it is Defendant's position that the no-contact order agreed to during the state plea conference does not apply to anyone other than those three victims who were officially part of Defendant's state plea.

5. Upon Plaintiffs' counsel seeking reassurance from Defendant's counsel that neither Defendant nor his agents would contact victims on the USAO List, Defendant's counsel responded that Defendant, Jeffrey Epstein, would not contact any of undersigned counsel's clients as long as Mr. Josefsberg was representing them in connection with settlement discussions.

6. As a result, on April 17, 2009, Plaintiffs' counsel sent defense counsel a letter requesting that Defendant provide written confirmation that neither he nor his agents will directly or indirectly contact any of the victims represented by Plaintiffs' counsel (the "No-Contact Letter") (April 17, 2009 Letter attached hereto as Exhibit B). On May 18, 2009, Plaintiffs' counsel again requested this written confirmation (E-mail correspondence attached hereto as Exhibit C). Despite Plaintiffs' reasonable requests, Defendant's counsel first responded by stating that the Non-Prosecution Agreement does not prevent some form of contact with undersigned counsel's clients. (Redacted May 18, 2009 Letter from Mr. Robert Critton is attached hereto as Exhibit D). Defendant's counsel then sent a letter on May 21, 2009 citing the Comment to Rule 4-4.2 of the Rules of Professional Conduct that states that "[p]arties to a matter

may communicate directly with each other.” (Redacted May 21, 2009 Letter from Mr. Critton is attached hereto as Exhibit E). Thus, despite Mr. Critton’s statement that it is not Defendant’s intention to have direct contact with undersigned counsel’s clients, Defendant obviously believes he can change his intentions if he so chooses.

7. Defendant, Jeffrey Epstein, is a designated sexual offender who sexually abused Jane Doe No. 101 and Jane Doe No. 102 when the victims were minors. As a result of his abuse, Plaintiffs have in the past suffered, now suffer, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, and invasion of their privacy. Any further direct or indirect contact with Defendant and/or his agents would cause a great deal of additional damages. Moreover, any desire or need on the part of Defendant to contact these victims—implied by virtue of his refusal to unambiguously confirm that he will not contact them—is disturbing and suspect, at best. At a minimum, Defendant’s refusal to avoid contact works as a ploy to attempt to keep Plaintiffs in “victim mode.”

WHEREFORE, Plaintiff respectfully requests this Court to enter an order prohibiting Defendant, Jeffrey Epstein, and any of his agents from any direct or indirect contact with Plaintiffs, except through Plaintiffs’ attorney of record through the duration of this Court’s order.

Memorandum In Support

As previously stated, during the course of Defendant’s state plea conference of June 30, 2008, Palm Beach Circuit Court Judge Deborah Dale Pucillo ordered Defendant “not to have any contact, direct or indirect” with any of Defendant’s victims. However, for what could only be dubious purposes, Defendant seeks to take advantage of the fact that only three of Defendant’s numerous victims were officially a part of the State of Florida’s criminal prosecution of

Defendant and that he entered into a non-prosecution agreement with the USAO. Thus, despite the no-contact order being considered a standard condition of probation or community control for sex offenders such as Defendant, and despite his counsel having agreed to a no-contact order with AUSA Villafañia for all of Defendant's victims on the USAO List, Defendant is now taking the position that neither Judge Dale Pucillo's no-contact order nor his agreement with the USAO via his counsel restricts him from contacting any of the victims except for the three victims directly involved in the state plea. Because of the non-prosecution agreement, there is no federal conviction against Defendant with respect to Plaintiffs and other victims on the USAO List who are similarly situated and, thus, no accompanying sentencing court to issue a no-contact order. However, each of the victims on the USAO List is supposed to be in the same position as if Defendant had been convicted in federal court. In crimes involving victims, at the time of sentencing, a sentencing judge generally has wide discretion to order that the defendant have no contact with the victim or victims of the crime or crimes for which the defendant is being sentenced. Where the defendant is given a sentence of probation or community control, the no-contact order can be made a condition of the defendant's supervision. The case for judicial intervention is heightened in cases such as this one, where Defendant has sexually exploited numerous minors. Jane Doe No. 101 and Jane Doe No. 102, like all of the other young women on the USAO List, were sexually abused by Defendant; any further direct contact with Defendant and/or his agents would cause a great deal of additional damages. Previous contact by Defendant and his agents with other victims has had a terrible effect on the young women's ability to heal the scars of Defendant's abuse. Additionally, Defendant's contacting his victims also has the predictable effect of undermining the victims' willingness to proceed with their civil actions against Defendant. Defendant's demonstrated use of his wealth, power, and influence has the immediate effect of intimidating young women who have already been traumatized by

his sexual exploitation. Indeed, any desire or need on the part of Defendant to contact his victims, implied by virtue of his refusal to confirm that he will not contact them directly or indirectly, is disturbing and suspect, at best. Plaintiffs thus ask this Court to provide the protection and peace of mind that each of them needs.

WHEREFORE, Plaintiffs respectfully move this Court to enter an order granting Plaintiffs' Motion for No-Contact Order prohibiting Defendant, Jeffrey Epstein, from any contact or communication with Plaintiffs Jane Doe No. 101 and Jane Doe No. 102, either directly or indirectly, except through Plaintiffs' attorney of record for the duration of the order.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

On May 18, 2009, undersigned counsel conferred with counsel for Defendant in a good faith effort to resolve the issues raised in this motion, and Defendant's counsel advised that Defendant opposes this motion.

Date: May 22, 2009

/s/Robert C. Josefsberg

Robert C. Josefsberg, Bar No. 040856

Katherine W. Ezell, Bar No. 114771

Podhurst Orseck, P.A.

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*Attorneys for Plaintiffs Jane Doe No. 101
and Jane Doe No. 102*

Certificate of Service

I hereby certify that, on May 22, 2009, 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 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/ Robert Josefsberg

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*Attorneys for Plaintiffs Jane Doe No. 101
and Jane Doe No. 102*

SERVICE LIST

JANE DOE NO. 2 v. JEFFREY EPSTEIN
Case No. 08-CV-80119-MARRA/JOHNSON
United States District Court, Southern District of Florida

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Jack P. Hill, Esq.
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Counsel for Plaintiff in Related Case No. 08-80469

EXHIBIT A
to
Plaintiffs Jane Doe 101 and Jane Doe 102's
Motion for No-Contact Order

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

STATE OF FLORIDA)
)
vs) CASE NO. 06 CF9454AMB
) 08 9381CFAMB
JEFFREY EPSTEIN)
)
Defendant.)
_____)

PLEA CONFERENCE

PRESIDING: HONORABLE DEBORAH DALE PUCILLO

APPEARANCES:

ON BEHALF OF THE STATE:

BARRY E. KRISCHER, ESQUIRE
State Attorney
401 North Dixie Highway
West Palm Beach, Florida 33401
By: LANNA BELOHLAVEK, ESQUIRE
Assistant State Attorney

ON BEHALF OF THE DEFENDANT:

ATTERBURY, GOLDBERGER & WEISS, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, Florida 33401
By: JACK GOLDBERGER, ESQUIRE

CERTIFIED COPY

June 30, 2008
Palm Beach County Courthouse
West Palm Beach, Florida 33401
Beginning at 8:40 o'clock, a.m.

PHYLLIS A. DAMES, OFFICIAL COURT REPORTER

1 regularly congregate?

2 MS. BELOHLAVEK: I personally do not
3 know.

4 THE COURT: Neither do I, which is
5 why I'm asking. Has that been
6 investigated?

7 MR. GOLDBERGER: We have done our due
8 diligence, for what it's worth, there is a
9 residential street. There are not children
10 congregating on that street. We think the
11 address applies, if it doesn't, we fully
12 recognize that he can't live there.

13 THE COURT: Okay. D is, you shall
14 not have any contact with the victim, are
15 there more than one victim?

16 MS. BELOHLAVEK: There's several.

17 THE COURT: Several, all of the
18 victims. So this should be plural. I'm
19 making that plural. You are not to have
20 any contact direct or indirect, and in this
21 day and age I find it necessary to go over
22 exactly what we mean by indirect. By
23 indirect, we mean no text messages, no
24 e-mail, no Face Book, no My Space, no
25 telephone calls, no voice mails, no

1 messages through carrier pigeon, no
2 messages through third parties, no hey
3 would you tell so and so for me, no having
4 a friend, acquaintance or stranger approach
5 any of these victims with a message of any
6 sort from you, is that clear?

7 THE DEFENDANT: Yes, ma'am

8 THE COURT: And then it states,
9 unless approved by the victim, the
10 therapist and the sentencing court. Okay.

11 THE DEFENDANT: I understand.

12 THE COURT: And the sentencing court.
13 So, if there is a desire which, I would
14 think would be a bit strange to have
15 contact with any of the victims the court
16 must approve it.

17 MS. BELOHLAVEK: Correct.

18 THE COURT: If the victim was under
19 the age of 18, which was the case, you
20 shall not until you have successfully
21 attended and completed the sex offender
22 program. So, is this sex offender program
23 becoming a condition of probation?

24 MS. BELOHLAVEK: That is not. I
25 don't believe I circled that one.

EXHIBIT B
to
Plaintiffs Jane Doe 101 and Jane Doe 102's
Motion for No-Contact Order

Podhurst Orseck

TRIAL & APPELLATE LAWYERS

Aaron S. Podhurst
Robert C. Josefsberg
Joel D. Eaton
Steven C. Marks
Victor M. Diaz, Jr.
Katherine W. Ezell
Stephen F. Rosenthal
Ricardo M. Martinez-Cid
Ramon A. Rasco
Alexander T. Rundlet
John Gravante, III
Carolina Maharbiz

Robert Orseck (1934-1978)

Walter H. Beckham, Jr.
Karen Podhurst Dern
Of Counsel

April 17, 2009

VIA FACSIMILE

David Spicer, Esq.
11000 Prosperity Farms Road
Suite 104
Palm Beach Gardens, FL 33410

Robert Critton, Esq.
Burman, Critton, Luttier & Coleman LLP
515 North Flagler Drive, Suite 400
West Palm Beach, FL 33401

Jack Goldberger, Esq.
Atterbury, Goldberger & Weiss, P.A.
250 Australian Avenue South, Suite 1400
West Palm Beach, FL 33401

Gentlemen:

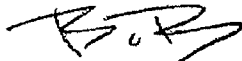
During our recent meeting with Mr. Black, we were told that it is your client's position that the no-contact order agreed to during the state plea colloquy does not apply to any of our clients except for those victims who were part of Mr. Epstein's state plea. Our understanding is that AUSA Villafana and Messrs. Tein and Goldberger entered a verbal agreement at the time that the list of victims was provided to those defense counsel that Mr. Epstein, including his agents, would have no direct or indirect contact with the victims named on this list. In addition, under applicable Florida Bar Rules governing contact by attorneys and their agents with persons represented by counsel, *any* contact with any of our clients or their family members by Mr. Epstein, his counsel and/or his agents must strictly be through us. Mr. Lefkowitz had previously reassured us that Mr. Epstein would not contact any of our clients as long as I am "representing them in connection with settlement discussions." Due to our differences regarding the retroactivity issue and the "per plaintiff" v. per incident/count issue, we have apparently reached a dead end regarding settlement.

We are concerned that Mr. Epstein could misconstrue our impasse in conjunction with Mr. Lefkowitz' e-mail to mean that now that we are no longer "representing them in connection with settlement discussions," he may contact them. Please be assured that it is our position that regardless of whether we are representing our clients during settlement discussions and/or trial preparation, we, and the rules of professional conduct, prohibit contact.

In order to be crystal clear as to whom we represent, we have attached a list of our present clients. We expect each member of Mr. Epstein's defense team to abide by the applicable rules of professional conduct. We request written confirmation from Mr. Epstein that neither he nor his agents will contact *any* of the victims represented by us.

If this correspondence is in any way unclear, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "R. C. Josefsberg", written in a cursive style.

Robert C. Josefsberg

cc: Roy Black, Esq. w/ enclosures
Jay Lefkowitz, Esq. w/ enclosures

List of Clients Represented by Podhurst, Orseck P.A.
as of April 17, 2009¹

[REDACTED]

¹ We will supplement this list as necessary.

EXHIBIT C
to
Plaintiffs Jane Doe 101 and Jane Doe 102's
Motion For No-Contact Order

ROBERT C. JOSEFSBERG

From: ROBERT C. JOSEFSBERG
Sent: Monday, May 18, 2009 4:46 PM
To: 'rcrit@bcklaw.com'; 'jagesq@bellsouth.net'
Subject: Epstein No Contact Letter
Importance: High
Attachments: No Contact Letter of April 17.pdf

Gentlemen:

On April 17, 2009 we sent your team the attached No Contact Letter. To date, we have not heard back from you or any other members of Mr. Epstein's defense team. If we don't hear back from you by Wednesday, May 20, 2009, we will seek relief in court. If you have any questions, please do not hesitate to contact us.

Robert C. Josefsberg

5/19/2009

EXHIBIT D
to
Plaintiffs Jane Doe 101 and Jane Doe 102's
Motion for No-Contact Order



**BURMAN, CRITTON, LUTTIER
& COLEMAN LLP**

A LIMITED LIABILITY PARTNERSHIP

J. MICHAEL BURMAN, P.A.¹
GREGORY W. COLEMAN, P.A.
ROBERT D. CRITTON, JR., P.A.
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¹ FLORIDA BOARD CERTIFIED
CIVIL TRIAL LAWYER

May 18, 2009

ADELQUI J. BENAVENTE
PARALEGAL / INVESTIGATOR

BARBARA M. McKENNA
ASHLIE STOKEN-BARING
BETTY STOKES
PARALEGALS

RIITA H. BUDNYK
OF COUNSEL

Katherine W. Ezell, Esq.
Robert Josefsberg, Esq.
Podhurst Orseck, P.A.
25 West Flagler Street, Suite 800
Miami, FL 33130

Re: [REDACTED]

Dear Kathy and Bob:

[REDACTED]

Additionally, Bob, you wrote a letter on April 17, 2009 stating your position regarding "No Contact" with any of your firm's clients based on your interpretation of the Non-Prosecution Agreement. I do not concede that your position is correct nor that the Non-Prosecution Agreement prevents some forms of contact with your clients.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

L • A • W • Y • E • R • S

515 N. FLAGLER DRIVE / SUITE 400 / WEST PALM BEACH, FLORIDA 33401

TELEPHONE (561) 842-2820 FAX (561) 844-6929

mail@bolclaw.com

May 18, 2009
Page 2

[REDACTED]

Cordially yours,


Robert D. Critton, Jr.

RDC/clz

cc: Jack Goldberger, Esq.

EXHIBIT E
to
Plaintiffs Jane Doe 101 and Jane Doe 102's
Motion for No-Contact Order



**BURMAN, CRITTON, LUTTIER
& COLEMAN LLP**

A LIMITED LIABILITY PARTNERSHIP

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ADELQUI J. BENAVENTE
PARALEGAL / INVESTIGATOR

BARBARA M. McKENNA
ASHLIE STOKEN-BARING
BETTY STOKES
PARALEGALS

RITA H. BUDNYK
OF COUNSEL

May 21, 2009

Sent by E-Mail and U.S. Mail

Robert C. Josefsberg, Esq.
Katherine Ezell, Esq.
Podhurst Orseck, P.A.
25 West Flagler Street, Suite 800
Miami, FL 33130

Dear Bob:

As I advised you yesterday, I am responding to your April 17, 2009 letter. As I stated in my e-mail, I think your request is unnecessary. Despite what Roy may have said to you, my client has had no contact with any of your clients. To my knowledge, the only one who has "breached" any agreement regarding contact is your own client, [REDACTED] who, as I advised you in a letter last week, contacted Jack Goldberger's office looking for her settlement check. Mr. Goldberger, of course, did not speak with her.

Lawyers who represent Mr. Epstein are well familiar with the Rules of Professional Conduct, including Rule 4-4.2. At the same time, I am certain you are equally familiar with that Rule. The Comment provides "Parties to a matter may communicate directly with each other..."

To my knowledge, neither Mr. Epstein nor any attorney or agent of those attorneys who represent Mr. Epstein, have contacted or attempted to contact your clients. Given that it is not Mr. Epstein's intention to have direct contact with your clients, it is unnecessary to respond point by point to statements attributed to my co-counsel.

L · A · W · Y · E · R · S

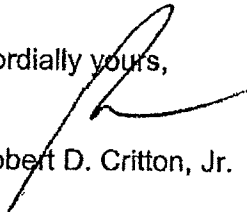
515 N. FLAGLER DRIVE / SUITE 400 / WEST PALM BEACH, FLORIDA 33401
TELEPHONE (561) 842-2820 FAX (561) 844-6929

mail@bcclaw.com

May 21, 2009
Page 2

Rather than to be concerned about what my client is doing, I would ask that you advise your clients not to contact Mr. Epstein's lawyers directly. Neither I nor the attorneys who represent Mr. Epstein want to be put in a position where we are set up by any of your clients.

Cordially yours,


Robert D. Critton, Jr.

RDC/msc

cc: Roy Black, Esq.
Jay Lefkowitz, Esq.
J. Michael Burman, Esq.
Jack Goldberger, Esq.

Josefsberg.011.doc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JANE DOE NO. 2,

CASE NO.: 08-CV-80119-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 3,

CASE NO.: 08-CV-80232-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 4,

CASE NO.: 08-CV-80380-MARRA/JOHNSON

Plaintiff,

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JANE DOE NO. 5,

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Plaintiff,

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CASE NO.: 09-CV-80591-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 102,

CASE NO.: 09-CV-80656-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

ORDER

THIS CAUSE comes before the Court on Plaintiffs' Motion for No-Contact Order (DE #__), filed May 22, 2009. Plaintiffs represent that Defendant has not agreed to the relief