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**Subject:** Gov't Says Epstein Victims Can't Scrap Nonprosecution Deal - Law360

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ov't Says Epstein Victims Can't Scrap Nonprosecution Deal

By *Carolina Bolado*

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Law360 (June 25, 2019, 4:07 PM EDT) -- Federal prosecutors said Monday that billionaire sex offender Jeffrey Epstein's victims are not entitled to the relief they're seeking — namely the reopening of the criminal case against Epstein and an apology — but offered to participate in a hearing at which victims can provide statements.

The government said the Crime Victims Rights Act, under which two of Epstein's victims sued to challenge the nonprosecution agreement, does not provide for the **relief they want**, which includes a detailed explanation from prosecutors about their decision, an apology and monetary sanctions.

The court **found in the victims' favor** in February and ruled that prosecutors, including then-U.S. Attorney and current Labor Secretary Alexander Acosta, violated the CVRA when they signed the nonprosecution agreement with Epstein without notifying his victims.

In its response, the government admitted that it should have communicated with the victims in a more straightforward and transparent way but said that does not mean the decision to not prosecute Epstein was improper. The remedy should have a

nexus to the purpose of the CVRA, which is to give victims a voice but not to give them decision-making authority over prosecutors, according to the government.

“The past cannot be undone; the government committed itself to the terms of the [nonprosecution agreement], and the parties have not disputed that Epstein complied with its provisions,” the government said. “A number of Epstein’s victims subsequently invoked the NPA to enter into civil settlements with Epstein and, in that respect, also relied on its terms. Any remedy for the CVRA violation should thus serve to give the victims a voice, even though the prosecution decision remains out of their hands.”

The government instead proposed a meeting with the two plaintiffs, as well as any other Epstein victims who want to attend, at which a [U.S. Department of Justice](#) representative will discuss the government’s reasoning in resolving the Epstein case.

The government said prosecutors would also participate in a public court proceeding at which any Epstein victims can make statements. In addition, all criminal prosecutors in the [U.S. Attorney’s Office](#) for the Southern District of Florida would undergo additional training on the CVRA and victim assistance issues.

“While the court cannot unwind the past, the remedies proposed by the government would give the victims a meaningful opportunity to have their voices heard and to understand, if not accept the decisions made in this matter,” the government said.

“Petitioners’ requested remedies, on the other hand, run afoul of the remedial scheme contemplated by the

CVRA, are contrary to law, and may cause unintended harm to the victims whose interests are also protected by the CVRA."

U.S. District Judge Kenneth A. Marra granted summary judgment in February to the two victims, listed as Jane Does, who sued the government in 2008 alleging that prosecutors had violated the CVRA with the Epstein deal. The judge said the government's decision to hide its intentions and to tell victims to just be patient with the investigation was "particularly problematic."

Judge Marra rejected the government's claim that the CVRA requires victims to be notified only of a plea bargain or a deferred prosecution agreement, both of which are more common than a nonprosecution agreement. That reading of the law is "inconsistent with the goal of the CVRA," according to the judge.

"The expansive context of the CVRA lends itself to only one interpretation; namely, that victims should be notified of significant events resulting in resolution of their case without a trial," Judge Marra said.

The CVRA grants crime victims a number of rights, including the right to be informed of public court proceedings and not to be excluded from those proceedings. The Miami Herald, in an investigative report published late last year, printed emails showing the alleged victims were deliberately excluded from the deal cut between Acosta, who was then the U.S. attorney for the Southern District of Florida, and Epstein's defense team.

Brad Edwards, who represents the victims, said his clients are disappointed by the government's

response.

“After sifting through self-serving statistics and variations of the same excuses we have heard for years, the government took no responsibility for its clear wrongdoing and suggests that no remedy is the appropriate ruling,” Edwards said. “In fact, it acts like it is doing the victims a favor by offering to have its attorneys voluntarily attend training courses. The pleading was the type of slap in the face that we expect to see from Mr. Epstein.”

Epstein's alleged victims — numbering in the dozens — claim he lured teenage girls to his Palm Beach, Florida, mansion to engage in sexual acts. They have not had the opportunity to testify in court in any proceeding thus far, according to the Herald report.

Epstein pled guilty in 2008 to state charges involving solicitation of prostitution and procurement of minors for prostitution. He spent 13 months in prison and is registered as a sex offender.

The victims are represented by Bradley Edwards of [Edwards Pottinger LLC](#), Jay C. Howell of Jay Howell & Associates PA, John Scarola of [Searcy Denney Scarola Barnhart & Shipley PA](#), and Paul G. Cassell of the University of Utah's S.J. Quinney College of Law.

The government is represented by Byung J. Pak, Jill E. Steinberg and Nathan P. Kitchens of the U.S. Attorney's Office for the Northern District of Georgia.

The case is Doe v. U.S., case number [9:08-cv-80736](#), in the U.S. District Court for the Southern District of Florida.

--Editing by Kelly Duncan.