

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

M.J.,

CASE NO. 9:10-CV-81111-WPD

Plaintiff,

Vs.

JEFFREY EPSTEIN, and
SARAH KELLEN,

Defendants.

/

**M.J.'S MOTION FOR A PROTECTIVE ORDER BARRING DIRECT OR INDIRECT
CONTACT BY EPSTEIN**

COMES NOW M.J. to ask for a protective order, barring direct or indirect contact by Epstein (including any contact by “private investigators”) unless first approved by the Court after notice to and a hearing with M.J.. Epstein is a registered sex offender, who should not have contact with any of the victims of his sexual assaults – including M.J.. Moreover, in a prior court case quite similar to M.J.’s, Epstein has directly harassed victims of his abuse through the device of sending “private investigators” to do his harassment. Accordingly, the Court should forbid any such direct or indirect contact without prior approval of the Court.

BACKGROUND

Previous Protective Orders

Epstein has pled guilty to state sex charges on June 30, 2008. When he pled guilty before Palm Beach Circuit Court Judge Deborah Dale Pucillo, she ordered Epstein “not to have any contact, direct or indirect” with any victims. She also expressly

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stated that her no-contact order applied to “all of the victims.” The relevant transcripts are attached as **Exhibit 1**.

To avoid any uncertainty about the scope of this state court order, several of the plaintiff/victims with other suits pending against Epstein before this Court filed a motion for an order prohibiting defendant or his agents from communicating with them directly or indirectly. (Case No. 9:08-cv-80119, DE 113.) **Exhibit 2**. Epstein opposed these requests as “needless, unwarranted and excessive.” DE 127 at 5. **Exhibit 3** This Court, however, firmly overruled Epstein’s objections. On July 31, 2009, this Court (Marra, J.) entered its own no-contact order (in addition to the state court order), ruling:

In light of Defendant’s response to Plaintiff’s motion for no contact order, suggesting that the state court’s order only applies to some victims and that parties are always allowed to contact each other directly, the Court finds it necessary to state clearly that *Defendant is under this court’s order not to have direct or indirect contact with any plaintiffs*, regardless of the intended scope of the state court court’s order.

Order, Case No. 9:08-cv-80119, DE 238, at 4-5 (emphasis added). **Exhibit 4**

As one of the victim’s (Jane Doe’s) case approached trial, this Court ordered Jane Doe to attend a settlement conference on July 6, 2010. Jane Doe had concerns that the upcoming settlement conference, demanded by Epstein, was going to be used to harass and intimidate her. See Plaintiff Jane Doe’s Motion for Modification of Magistrate Judge Palermo’s Order Schedule settlement Conference, Case No. 9:08-cv-80893, DE 187. **Exhibit 5**. After a response from Epstein (DE 191), the Court modified its order regarding the settlement conference to avoid harassment of Jane Doe. Significantly, in the final paragraph, the Court (Palermo, J.), starkly commanded:

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The parties are instructed not to communicate, speak or harass one another in any way. Any violation of this Order will not be tolerated. The parties are instructed to GOVERN THEMSELVES ACCORDINGLY.

Case no. 9:08-cv-80893, DE 193 at 2 (italic added, capitalization in original). **Exhibit 6**

Intimidating Activities Against Jane Doe on the Evening of July 1, 2010

In spite of three court orders forbidding contact and harassment of victims – including Jane Doe, the plaintiff in case No. 9:08-cv-80893 -- Epstein showed his unwillingness to follow the rules. On the evening of July 1, 2010, sometime after the issuance of Judge Palermo's order, Jane Doe left her house to go to the store and noticed a car (Infiniti SUV, license tag T-KNOLZ) following her everywhere she went. Feeling frightened, she pulled into a driveway in a nearby neighborhood at one point to allow the car to proceed past her, but the car pulled into the neighborhood and stopped nearby. It was clear the person in the car was following her and was intentionally making his presence known. Jane Doe pulled out of the driveway and headed home, with this other car tailing close behind. Once Jane Doe arrived to her house, she went inside and the person following in the Infiniti parked across the street outside her home. Jane Doe called her attorney expressing her fear and asking what could be done to protect her. She observed that the car kept creeping closer to her home every once in awhile.

This intimidation of Jane Doe was so serious that, alerted by Jane Doe's counsel, a retired police officer called the police. The police responded to Jane Doe's home and confronted the man in the car. The man told the police that he was "private investigator." However he would not tell the police who had hired him, only that he was

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hired to “watch” Jane Doe. The name of the investigator appears to be Thaddeus Knowles. The police reported these facts to Jane Doe, but advised her that they did not have a legal basis to order him to leave the public street.

Counsel for Jane Doe then arranged for the retired police officer to go to Jane Doe’s home. This retired officer arrived at Jane Doe’s home at approximately 10 p.m. He immediately saw a car parked 25 feet from Jane Doe’s home, facing her home. He also observed the purported “private investigator” in the car intermittently flashing his high beam lights into Jane Doe’s home. The investigator was also intermittently attempting to videotape anyone inside the home. The retired police officer took videotapes of the investigator lighting up the interior of the home with his high beam lights, and also took photographs of this harassing action as well. The videotape and photographs could be provided quickly to the Court upon request.

After consulting with Jane Doe, the retired police officer determined that Jane Doe felt like a prisoner in her own home and that she believed her physical safety was threatened if she remained there. She further believed that this intimidation was being orchestrated by defendant Epstein. Jane Doe was not involved in other litigation and is not aware of any other person who would want to do something like this to her. Also, in the previous 48 hours, Jane Doe had received telephone calls from two ex-boyfriends that investigators were at their homes, knocking on their doors and trying to talk to them about Jane Doe – apparently because of this case.

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In light of Jane Doe's concerns, the retired police officer believed that it was best to take Jane Doe from her home. He advised Jane Doe to pack a suitcase and leave the home with him.

At approximately 10:30 p.m., the retired police officer then took Jane Doe in his car and pulled up next to the "private investigator." The retired police officer advised the investigator that Jane Doe was leaving the home to go to another location and that he should not attempt to follow them. Nonetheless, the investigator attempted to follow the retired police officer as they drove away from Jane Doe's home. The retired police officer then took evasive action and was able to elude his pursuer.

As a result of these activities, Jane Doe felt very threatened. She knew that she was followed for much of the day. She also knew that this was not surreptitious surveillance by someone who was trying to discovery something about her, but rather quite visible surveillance by someone whose manifest intent was to make sure that she knew she was being followed. Thus, when she pulled over, he pulled over; when she parked, he parked visibly close by. The only reason for such activities could be to intimidate her on the eve of the court-ordered mediation. It may also be worth noting that Jane Doe was a petite young woman, physically smaller and younger than the male private investigator who has been following her.

Jane Doe went into the protective custody of her attorneys and was hidden at a secure location. On the afternoon of Friday, July 2, 2010 (shortly before the 4th of July weekend), Jane Doe filed a Emergency Motion for A Hearing, Finding That Epstein is in Civil Contempt of the Court's Two Orders Forbidding Harassment and Indirect Contact,

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For Appropriate Sanctions and Additional Remedies Including Referral for Criminal Contempt. Case No. 9:08-Cv-80893, **Exhibit 7**.

Other Intimidation of Victims and Witnesses By Epstein

The Court should be aware that the intimidation of Jane Doe was not the first time Epstein used scare tactics to intimidate victims and witnesses. Indeed, as the Court is aware, despite numerous civil suits being filed against Epstein for sexual abuse, none of the victims in those cases have felt able to proceed to trial. Counsel for Jane Doe have been advised that many of these victims were afraid to take their cases all the way to trial.

In determining where to enter a protective order, this Court can consider all of the circumstances, including other documented examples of harassment by Epstein:¹

Previous use of “investigators” to scare witnesses: The use of “investigators” to aggressively harass his victims is not new to Epstein, as investigators have in the past aggressively followed key witnesses to intimidate and scare them. See Palm Beach Police Incident Report at p. 86 (Complete Incident Report attached as **Exhibit 8**).

Victim-to-victim communication: One of Epstein’s sexual abuse victims was relayed a message from another victim speaking on Epstein’s behalf regarding the criminal investigation of Epstein in 2006: “Those who help will be compensated and those who hurt will be dealt with.” See Palm Beach Police Department Incident Report, page 83.

¹ The Federal Rules of Evidence do not apply to this motion and, in any event, the federal rules authorize the Court to consider other bad acts in reaching a conclusion about disputed events. See Fed. R. Evid. 404(b).

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Witness tampering during the federal investigation: During the FBI investigation of his sexual abuse of young girls, Epstein intimidated and harassed other possible witnesses against him -- namely Sarah Kellen, Leslie Groff and Nadia Marcinkova. Indeed, this intimidation was so serious that federal prosecutors prepared draft federal charges against him for witness tampering charges. (attached as **Exhibit 9**). Ultimately, for reasons that are unclear, these charges were not filed.

Threats Against Jane Doe 102: Epstein has even tracked down adverse witnesses as far away as Australia in the past to send the message not to testify against him regarding his illegal sexual exploits. See *Complaint of Jane Doe 102 v. Epstein* (attached as **Exhibit 10**).

Threats Against Alfredo Rodriguez: Jane Doe is not the only person to have received this impression that she is at risk if she does not accede to Epstein's demands. The Court is familiar with Alfredo Rodriguez, an employee of Epstein who kept a "black book" of the names of minor girls Epstein' was sexually abusing. See Criminal Complaint, U.S. v. Rodriguez, No. 9:10-CR-80015-KAM (DE 3) **Exhibit 11**. Rodriguez stated that he was afraid that Jeffrey Epstein would make him "disappear" unless he had an "insurance policy" (i.e., the black book). *Id.* at 3.

"Accidentally" Encountering a Victim on the Way to a Deposition.

During civil litigation of other cases brought against Jeffrey Epstein by other Epstein victims, Epstein himself attempted to intimidate those victims whenever he got the chance. At the deposition of one of his victims who proceeded civilly against Epstein under the pseudonym Jane Doe #4, Epstein intentionally crossed paths with the

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victim and stared her down as an attempt to intimidate her. (DE 306 in case 08-80119, attached at **Ex. 12**). On November 5, 2009, Epstein again appeared in the location where one of his victims, this time Doe #3. Jane Doe #3, was present for her 8 hour psychological IME. Epstein knew at that time that Jane Doe #3 was already emotionally fragile and suffering through a grueling psychological examination and he chose to exacerbate her condition by suddenly appearing within feet of her. See **Ex. 13**. Each of these encounters occurred despite the court's elaborate procedures to prevent these encounters and irrespective of the various court orders in place warning Epstein against this behavior.

LEGAL MEMORANDUM

The Court can consider all of the foregoing information as circumstantial evidence pointing to only one conclusion: that defendant Epstein – a registered sex offender with vast financial resources – may well try to intimidate M.J. during this lawsuit. The Court should accordingly enter a protective order barring direct or indirect contact by Epstein with M.J., including contact by purported “private investigators” without approval by the Court.

It is clear that the intent of Palm Beach circuit Court Judge Deborah Dale Pucillo was to keep Epstein from having any contact with “all” of his victims, and she barred both “direct or indirect” contact. Epstein, however, has obviously absurdly narrow interpretations of these orders to engage in threats and harassment.

In a case similar to this one, Judge Marra entered a no-contact order, barring Epstein from having any direct or indirect contact with the victims. Order, Case No.

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9:08-cv-80119, DE 238, at 4-5 (emphasis added). Epstein, however, ridiculously interpreted that order as allowing him to send private investigators to Jane Doe's home late at night and terrorize her. Accordingly, to avoid any such harassment in this case, the Court's order should make clear that it extends to "private investigators" unless Epstein obtains permission for investigation after notice to M.J. and a hearing.

CONCLUSION

Harassment of plaintiffs who have filed civil suits – particularly civil suits alleging sexual assaults – strikes at the very heart of the legal system. Harassment may prevent a victim from obtaining justice in Court. This Court should not pretermit any such behavior by Epstein. The Court should enter an order barring Epstein from having any direct or indirect contact with M.J., including contact through "private investigators," without first obtaining leave of the Court after notice to and a hearing with M.J..

POSITION OF THE PARTIES

M.J. has conferred with Counsel for defendant Epstein and understands that defendant Epstein objects to all these requests.

DATED: November 11, 2010

Respectfully Submitted,

s/ Bradley J. Edwards
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 11, 2010 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 parties 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 parties who are not authorized to receive electronically filed Notices of Electronic Filing.

s/ Bradley J. Edwards
Bradley J. Edwards

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