

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Related cases:

08-80232, 08-08380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092

**Defendant, Jeffrey E. Epstein's Motion To Compel Plaintiff, Jane Doe #6's
Independent Medical Examination Pursuant to Rule 35**

Defendant, JEFFREY E. EPSTEIN (hereinafter "Epstein"), by and through his attorneys, and pursuant to Fed. R. Civ. P. 35 and other applicable rules, hereby moves this Court for an order directing that the Plaintiff, Jane Doe # 6 (case #80994), submit to a compulsory psychological/psychiatric medical examination (a/k/a independent medical examination) by Ryan Hall, M.D. of Richard Hall, M.D. at the law firm of Burman, Critton, Luttier and Coleman, LLP. located at 303 Banyan Boulevard, Ste. 400, WPB, FL. 33401. In support, Epstein states:

Background

1. This Court entered an order relating to the IME of CMA, another Plaintiff seeking similar damages against Epstein. See Exhibit "A." Given the damages claimed in this matter, it is clear that Plaintiff has placed her medical condition at issue

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and that an IME is required. Despite that fact and the fact that discovery has been consolidated, Defendant is required to file a Rule 35 Motion seeking an IME. Thus, the undersigned believes that an Omnibus Order is required relative to all Plaintiffs' IMEs in that each claim similar damages and raise similar claims. Such an order would conserve judicial resources and require that the attorneys only negotiate dates and times for said IMEs.

2. Nonetheless, this particular Motion, pursuant to Rule 35, only addresses the IME of Jane Doe #6.

3. Plaintiff has alleged in her action that Defendant sexually battered her and, as a result, Plaintiffs seek millions of dollars in personal injury damages for, among other things, "severe and permanent traumatic injuries, including mental, psychological and emotional damages." See Amended Complaint. (DE 18) Plaintiff, Jane Doe #6, also claims Epstein "intentionally inflicted harmful or offensive contact on the person of Jane Doe, creating reasonable fear of imminent peril. . . [and] [a]s a proximate result of Epstein's assault on Jane Doe, she has suffered and will continue to suffer severe and permanent traumatic injuries, including mental, psychological and emotional damages." Id. at ¶¶ 16-20. Jane Doe #6 further alleges that she suffered ". . .mental or sexual injury. . .that caused or were likely to cause Jane Doe's mental or emotional health to be significantly impaired. . .[and]. . .Jane Doe has suffered and will continue to suffer severe mental anguish and pain." Id. at ¶¶ 24-26.

4. In addition, Jane Doe #6 informed her expert, Gilbert Kliman, M.D that she doesn't drive, is afraid to drive and does not hold a driver's license due to the fact that in 2003 on I-4, she was riding in a car with her mother and their vehicle was hit by a

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semi-truck. In fact, she stated in the interview with Dr. Kliman that her mother was severely injured and the airbag "burned off her face...it burned part of her face." Jane Doe #6 was riding in the passenger seat of the vehicle. See Exhibit "B". According to Interrogatory answer # 7, Jane Doe #6 was diagnosed with PTSD following the car accident.

5. In addition, on March 2, 2003, Jane Doe #6 made a suspicious person report when an unknown male confronted her in her shed when she went out to do her laundry. The male was standing there with her underwear in his mouth. He fled and was never apprehended. See Exhibit "C". On August 28, 2003, Jane Doe #6 was allegedly battered by four (4) girls who followed her home through the woods. See Exhibit "D". On November 22, 2003, Jane Doe #6 was in a fight with a girl over the girl's boyfriend. See Exhibit "E" – all pre-Epstein. See supra.

6. Also, on April 10, 2005, Jane Doe #6 witnessed a friend enter a green transformer box, play with the wires and electrocute himself. See Exhibit "F". On April 13, 2006, Jane Doe #6's mother made a child abuse report, and advised police that Jane Doe #6 and her father have been smoking pot together since she was thirteen (13) years old. See Exhibit "G". Then on December 22, 2006, Jane Doe #6 and her boyfriend, James Sullivan, got into an argument and he went out into the street and put a gun to his head and killed himself. See Exhibit "H". Certainly, Epstein is permitted to know and investigate through his IME expert whether Plaintiff's physical, psychological, mental, and emotional damages were caused by other incidents in Plaintiff's life separate and apart from what she attempts to pawn-off on Epstein in her attempt to recover millions of dollars.

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7. Furthermore, it is important for this court to review the detailed Affidavit of Dr. Hall attached hereto in that it delineates for the Court several experiences visited upon Jane Doe which may have caused the physical, emotional and psychological trauma she claims occurred at the hands of Epstein. See Affidavit of Dr. Hall Attached hereto as **Exhibit "I"**.

8. Based upon the foregoing, it is clear that Jane Doe #6 has placed her physical, emotional, medical and psychological conditions at issue. Therefore, an IME is warranted. Without an IME, Epstein would be severely prejudiced. The Affidavit of Dr. Hall clearly sets out the IME and scope of the examination that must be conducted. See also, the curriculum vitae of Dr. Ryan. See **Exhibit "J"**. The examination is set to occur at the undersigned office on November 9, 10, 11, 12, or 13, 2009 (whichever is more convenient for Plaintiff or whichever date the court so orders). Plaintiff has not provided dates for the IME; however, out of abundance of caution and to comply with the applicable rule, Defendant has, on a unilateral basis, set same pending the outcome of this Motion. Obviously, if the date noticed is not sufficient or agreeable, the undersigned will renote same for one of the four dates suggested; however, this Court must order same to occur.

9. As this court is well aware, Plaintiff and Defendant are required to complete discovery under the Court's trial schedule. It is not the undersigned's intention to require the court additional work; however, it is imperative that discovery be timely scheduled and completed. The court's assistance is needed in this instance as to the IME.

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10. Based upon the foregoing, an IME of Plaintiff must occur in order to address her claims and the damages she seeks to recover. The IME is expected to last between 6-8 hours, and the scope of same is set forth in the Affidavit of Dr. Hall.

11. Pursuant to Rule 35, Fed.R.Civ.Pro, a party may move for an examination by a qualified examiner if the Plaintiff's mental/emotional and/or psychological status is at issue in a case.

12. Defendant would be severely prejudiced unless he is able to have an examination conducted by a qualified examiner separate and apart from any psychologist/psychiatrist or similar behavioral health provider who may have or may ultimately see the Plaintiff and testify in court.

13. Defendant's counsel has retained the services of Richard Hall, M.D. and Ryan Hall, M.D., of C.W. Hall, M.D., P.A. located at 2500 West Lake Mary Blvd., #219 Lake Mary, FL 32746. Ryan Hall, M.D., will be performing the examination. Dr. Ryan Halls' specialties include forensic psychiatry, general psychiatry and medical psychiatry. See Exhibit attached outlining Ryan Hall, M.D.'s qualifications and the scope of the examination which he intends and is required to conduct in order to render a report. See also Affidavit of Ryan C.W. Hall, M.D., outlining the scope of examination and other Rule 35 requirements. Accordingly, this motion comports with Rule 35. The applicable notice has been filed simultaneously. Defendant will arrange for a videotape of the examination.

14. The undersigned is requesting the court's assistance with regard to compelling the IME of Plaintiff along with dates for same to occur.

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Rule 7.1 A. 3. Certification of Pre-Filing Conference

Counsel for Defendant conferred with Counsel for Plaintiff by telephone and by e-mail; however, an agreement has not been reached.

WHEREFORE, Defendant requests that this Court enter an Order:

- a. providing a date and time for Plaintiff's IME to occur on November 9, 10, 11, 12 or 13, 2009;
- b. providing that the independent medical examination take place at 9:00 a.m. (on a date to be determined by the court) at the law firm of Burman, Critton, Luttier and Coleman, LLP. located at 303 Banyan Boulevard, Ste. 400, WPB, FL 33401 under the protocol set forth by Dr. Hall in his affidavit, by videotape and for such other and further relief as this court deems just and proper.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed 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 following Service List in the manner specified by CM/ECF on this 17 day of Sept, 2009

Respectfully submitted,

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