

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 50 2008CA020614XXXXMB AF

JANE DOE II,

Plaintiff,

vs.

COPY

JEFFREY EPSTEIN and SARAH KELLEN,

Defendants.

COURT REPORTER'S TRANSCRIPT OF
PROCEEDINGS HAD BEFORE
THE HONORABLE DIANA LEWIS

DATE: March 3, 2009

PLACE: Palm Beach County Courthouse
205 N. Dixie Highway
West Palm Beach, Florida 33401

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2 APPEARANCES:

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4 GARCIA LAW FIRM, P.A.
5 224 Datura Avenue
6 Suite 900
7 West Palm Beach, Florida 33401
8 Counsel for Plaintiff
9 BY: ISIDRO M. GARCIA, ESQUIRE

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11 BURMAN, CRITTON, LUTTIER & COLEMAN
12 515 N. Flagler Drive
13 Suite 400
14 West Palm Beach, Florida 33401
15 Counsel for Defendant
16 BY: ROBERT D. CRITTON, JR., ESQUIRE

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1 that but I'd just like to do that.

2 THE COURT: Right. And if you want to
3 contact the other individuals saying, you know,
4 I'm the one that's questioning whether or not
5 these need to be before one judge. You may have
6 a different perspective than your colleagues who
7 are prosecuting some of the cases.

8 I understand the damages. I'm not
9 saying consolidate. I'm saying transfer. It's
10 not a consolidation issue. Everybody gets that
11 confused for some reason. The words are very
12 different out of my mouth, your mouth and how
13 they're written.

14 So let me go ahead and take a gander at
15 this. I did read it last night. I'm not sure
16 that we need to get -- we need names?

17 MR. CRITTON: Right. Well, here's what some
18 of the issues are is that, as an example -- if I
19 could approach the bench.

20 THE COURT: Sure.

21 MR. CRITTON: This is some of the
22 information that we've obtained through discovery
23 from some of the -- from at least in this
24 instance, it would be this particular Jane Doe.

25 THE COURT: You know who Jane Doe is I take

1 it?

2 MR. CRITTON: Right.

3 THE COURT: You know who the Jane Doe is?

4 MR. CRITTON: Yes, correct. And so this
5 particular lady has kept in part a diary and
6 she -- which appears to have started some time --
7 this is not in any way significant -- but some
8 time after she learned that she could file a
9 lawsuit. I think she's also been to Oakwood
10 Center some time after she learned she could file
11 a lawsuit and seek damages from Mr. Epstein.

12 There's no history of this lady
13 beforehand other than in some of the Oakwood
14 records where she was Baker Acted, she started
15 drinking beer at 16, she started Xanax at 16,
16 started marijuana at 15, that she's sexually
17 active.

18 So how she has interacted -- she has a
19 claim for emotional damages, mental pain and
20 anguish, psychiatric-type damages. How she's
21 interacted with friends, with family, the events
22 in her life, school, work, her interpersonal
23 relationships both with men and let's -- we'll
24 use an example men here, but other individuals.
25 She's saying that this event with Mr. Epstein,

1 this sexual assault and whatever occurred during
2 these events is that -- has caused her damage.

3 And therefore damages in the case such
4 as the emotional, mental, psychiatric-type
5 damages are completely subjective, I mean
6 separate and apart from any medical bills that
7 may be -- which are clearly intangible. So these
8 are intangible damages. And the jury is
9 instructed, you know, you advise the greater
10 weight of the evidence, what's fair and
11 reasonable under the circumstances.

12 So what we would have is basically this
13 young lady's testimony as to what she claims her
14 damages are and what the circumstances are with
15 her situation with Mr. Epstein. She claims on
16 page 13, you know, I love this guy, I'm dating
17 this guy Chris. On page 15 --

18 THE COURT: Is this part of a diary for
19 treatment?

20 MR. CRITTON: I have no idea what it is. It
21 was just produced in response to discovery. And
22 she apparently started in, I think this is
23 December of '08. You know I took Jay Lyntenis'
24 girl to the zoo, had an amazing day, I love her,
25 i.e., the girl. We have so much fun. I want a

1 baby especially with him. Okay. So I know who
2 this person is. We are all so open together, I
3 love him and Jay and Lynn, what do I do with
4 Chris, who is another guy in her life.

20 You know, it's not something that I'm
21 going to spread around. I'm happy to keep it,
22 you know, within the confines of the discovery of
23 this case. But if she says every other
24 relationship in my life has been perfect but Jeff
25 Epstein has done this to me and it has affected

1 my ability to trust men and my sexual
2 relationships with other men, which is part of
3 her interpersonal relationships, okay, let's talk
4 to Sam Smith.

5 THE COURT: When does your client allege
6 that she had her first encounter with
7 Mr. Epstein?

8 MR. GARCIA: At what age?

9 THE COURT: Well, what year?

10 MR. CRITTON: June of '03.

11 MR. GARCIA: June of '03, Judge.

12 MR. CRITTON: She claims from June of '03
13 through November of '04.

14 MR. GARCIA: She was I believe 16 at the
15 beginning and ended at 17. She was a minor
16 during all this time.

17 THE COURT: June of '03 to now is six years.

18 Let me hear from Mr. Garcia.

19 MR. GARCIA: Judge, in the criminal case
20 that was filed against Mr. Epstein, he would not
21 have had a right to do this type of discovery and
22 I -- if I could hand up --

23 THE COURT: They wouldn't care about the
24 women.

25 MR. GARCIA: Right. Well, I mean --

1 THE COURT: This is damages. There's no --
2 they weren't seeking damages at the time.

3 MR. GARCIA: Right. And we have not alleged
4 in the complaint or in the answers to
5 interrogatories that her ability to have a
6 relationship with a man has been affected by
7 Mr. Epstein's conduct.

8 We have alleged that she has been
9 hospitalized for depression, anxiety but we have
10 not alleged any damages concerning -- the only
11 reason this would be relevant is if we were
12 making a claim at her ability to have either
13 sexual relations or to have emotional relations
14 with men was effected by her experience with
15 Mr. Epstein.

16 So this damages' claim is just a smoke
17 screen to attempt to get evidence to show the
18 jury that this woman has had other consensual
19 relationships with young men that are
20 approximately her age what I would characterize
21 as a slut defense. She had it coming to her
22 because she engaged in other voluntarily
23 consensual --

24 THE COURT: Mr. Critton wouldn't try the
25 slut defense in my courtroom, I'm sure.

1 MR. GARCIA: Maybe not, but certainly that's
2 the way this discovery is going. And, Judge,
3 what --

4 THE COURT: What are the damages you think
5 your client is seeking?

6 MR. GARCIA: She is seeking emotional
7 distress damages for depression and anxiety and
8 she has been hospitalized at the Oakwood Center.
9 Her friend -- she was on the phone to a friend
10 who called the sheriff's office because she
11 thought she was suicidal. The sheriffs
12 responded. They Baker Acted her that day and
13 they took her eventually to the Oakwood Center.

14 THE COURT: How do we know it's not
15 intertwined with her rejection by three other men
16 since Mr. Epstein?

17 MR. GARCIA: Well, even if it was related to
18 her rejection by three other men -- you mean
19 other men's rejection of her?

20 THE COURT: Yeah. Well, how do you not know
21 that? I mean you can't do it until you do
22 discovery. Has anybody attempted to review the
23 records from Oakwood to find out what's going on?

24 MR. CRITTON: It's like a one-time visit
25 when she was Baker Acted and then there's some

1 other --

2 THE COURT: She didn't receive treatment?

3 MR. CRITTON: She received treatment for
4 that day and she's been back a couple of times.

5 She's on medication. Again, I don't know what or
6 the extent but she's got -- her medical bills are
7 de minimis.

8 Again as an example, Judge, did the
9 Court have an opportunity to look at the case
10 that I also attached to the motion? Because
11 there's a case that's almost on all fours with
12 this which I attached to our motion which is
13 called Balles versus Russo.

14 THE COURT: Right.

15 MR. CRITTON: It was a case where the
16 plaintiff was sued -- the plaintiff sued the
17 former owners of a house of prostitution. So
18 that part is different, but within it there were
19 a number of claims including a sexual assault
20 claim and they sought emotional pain, humiliation
21 and emotional distress.

22 Within the complaint that was filed in
23 this particular case, she is seeking severe
24 emotional distress, mental anguish, humiliation,
25 embarrassment, past and future, compensatory

3 And what the Court said --

4 THE COURT: How old is she now?

5 MR. GARCIA: She's 21 now.
6
7 MR. CRITTON: She's 21 now. What the Court
8 said is, you know, if you'd only brought this
9 claim under 796 evidence of past issues, it's not
10 an issue. You can't use this defense for
11 anything, but because you brought these other
12 claims which include, you know, sexual assault
13 and you're seeking damages for other causes of
14 action since the information sought by discovery
15 may be relevant or may lead to the discovery of
16 admissible evidence in one or more of the other
17 causes of action or determination of damages, we
18 cannot conclude the trial court parted from
essential requirements of law in granting --

25 MR. CRITTON: Right. A perfect example is

1 one of the cases that I have is there's a young
2 lady who claims that she was molested in the past
3 and raped, pretty significant issues, well in
4 advance of her even meeting with Mr. Epstein.
5 And they seem to play a large role in her
6 psychiatric and psychological evaluation.

7 We're going to come to the Court in
8 this case as we have others and ask for a
9 psychological evaluation of this lady, and if she
10 was raped or if she was molested or just she had
11 a bad experience or some -- whether it was a
12 young or old man assaulted her in some fashion,
13 that may play a role in her damages and what --

14 THE COURT: What I'm going to allow for
15 discovery purposes only not necessarily getting
16 it in at the time trial are two years before her
17 first encounter with Mr. Epstein and anything
18 subsequent.

19 MR. GARCIA: Judge, I just wanted to say on
20 the record because I forgot to mention it,
21 there's also -- I did state an objection to the
22 identity of people that are unrepresented in this
23 courtroom. They have rights too. So what I --

24 THE COURT: Well, my suggestion is that you
25 send those people a letter and tell them that

1 you're going to disclose them and if they have a
2 problem with it that they come to see me before
3 you disclose it.

4 So I'm going to give you 20 days to
5 respond to this rather than the usual five and
6 that will give you time to put these people on
7 notice and if they want to come visit with me and
8 have a John Doe, I'll have a John Doe hearing
9 but, you know, this is her case. She's doing it.
10 She's the one seeking damages, and he is entitled
11 to be able to confront other individuals to find
12 out information that may be relevant to the
13 damages she's seeking or she can drop the
14 damages. That's her choice. If you seek
15 damages, you've got to do it -- if you could put
16 that in an order so that we have a time for him
17 to do this.

18 Just fill out an order, hand it back up
19 to me and I'll deal with it.

20 (The proceedings were concluded.)

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REPORTER'S CERTIFICATE

THE STATE OF FLORIDA,

COUNTY OF PALM BEACH.

I, Teresa Bell, Court Reporter, certify that
I am authorized to and did stenographically report
the proceedings and that the transcript is a
complete record of my stenographic notes.

I further certify that the proceedings were taken at the time and place shown herein and that all counsel and persons as hereinabove shown were present.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 11th day of

TERESA BELL,
Court Reporter