UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.
_____/

DEFENDANT EPSTEIN'S REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS & FOR MORE DEFINITE STATEMENT

Defendant, JEFFERY EPSTEIN, (EPSTEIN), by and through his undersigned attorneys, files his reply to *Plaintiffs' Memorandum Of Law In Opposition To Motions To Dismiss*, dated October 31, 2008, and states:

Although Plaintiffs, Jane Doe Nos. 2 through 7, are separate and distinct persons, in separate and distinct actions, with separate and distinct facts and circumstances pertaining to the claims each is attempting to allege, Plaintiffs' counsel has filed a broad brush, identical response to Defendant's motions to dismiss and for more definite statement which were filed in each of the actions. As pointed out in Defendant's previously filed motions, there are factual distinctions in the actions and the allegations in Plaintiffs' attempts to assert the claims labeled as Count I – "Sexual Assault and Battery," and Count III - "Coercion and Enticement to Sexual Activity In Violation of 18 U.S.C. §2422." It is essential that each of the actions and the respective complaints filed therein are examined and treated as separate and distinct actions in deciding the respective legal issues and positions asserted.

As noted, Defendant's motion is directed to Count I and III of the respective complaints. Contrary to each Plaintiff's assertion, Defendant does not concede that Plaintiff has sufficiently plead the elements required to assert claims in Count I for "Sexual Assault and Battery" and in Count III pursuant to 18 U.S.C.§2422, and Defendant has not "misconstrued" the pleading standard formulated by the United States Supreme Court in Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955 (2007). In discussing Twombly, the Eleventh Circuit in Watts v. Fla. International Univ., 495 F.3d 1289, 1295 (11th Cir. 2007), noted - "The Supreme Court's most recent formulation of the pleading specificity standard is that 'stating such a claim requires a complaint with enough factual matter (taken as true) to suggest' the required element." In order to sufficiently allege the claim, the complaint is required to identify "facts that are suggestive enough to render [the element] plausible." Watts, 495 F.3d at 1296 (quoting Twombly , 127 S.Ct. at 1965). As stated in Defendant's motion to dismiss, Plaintiff has not met this standard requiring the pleading of facts to suggest the elements of the claims she is attempting to assert. In other words, Plaintiff is required to plead facts that suggest *each* element of the claim she is attempting to assert, as opposed to a generalized pleading. Accordingly, Defendant relies on the legal positions and argument in his motion, rather than reargue what has already been stated.

Finally, the letter attached as an Exhibit to Plaintiff's response is not dispositive of the issue of whether the Plaintiff has sufficiently alleged a claim in Count III pursuant to 18 U.S.C. §2422.

Wherefore, Defendant requests that this Court grant his motion to dismiss and for more definite statement directed to Plaintiff's Complaint.

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 10TH day of November, 2008:

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Respectfully submitted,

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