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receiver to take charge of Epstein's property and direct the receiver to provide the Court with an accounting of Epstein's assets and post a \$15 million bond to secure any potential judgment that Jane Doe might obtain in this case.

DATED July 23, 2009

Respectfully Submitted,

s/ Bradley J. Edwards
Bradley J. Edwards
ROTHSTEIN ROSENFELDT ADLER
Las Olas City Centre
401 East Las Olas Blvd., Suite 1650
Fort Lauderdale, Florida 33301
Telephone (954) 522-3456
Facsimile (954) 527-8663
Florida Bar No.: 542075
E-mail: bedwards@rra-law.com

and

Paul G. Cassell
Pro Hac Vice
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 23, 2009, 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

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

SERVICE LIST
Jane Doe v. Jeffrey Epstein
United States District Court, Southern District of Florida

Jack Alan Goldberger, Esq.
jgoldberger@agwpa.com

Robert D. Critton, Esq.
rcritton@bclclaw.com

Isidro Manual Garcia
isidrogarcia@bellsouth.net

Jack Patrick Hill
iph@searcylaw.com

Katherine Warthen Ezell
KEzell@podhurst.com

Michael James Pike
MPike@bclclaw.com

Paul G. Cassell
cassellp@bclclaw.com

Richard Horace Willits
lawyerswillits@aol.com

Robert C. Josefsberg
rjosefsberg@podhurst.com

Adam D. Horowitz
ahorowitz@sexabuseattorney.com

Stuart S. Mermelstein
ssm@sexabuseattorney.com

William J. Berger
wberger@rra-law.com

**PLAINTIFF JANE DOE'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR
INJUNCTION RESTRAINING FRAUDULENT TRANSFER OF ASSETS, APPOINTMENT OF A
RECEIVER TO TAKE CHARGE OF PROPERTY OF EPSTEIN AND TO POST A \$15 MILLION
BOND TO SECURE POTENTIAL JUDGMENT**

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

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CITIBANK, N.A.,

Plaintiff,

v.

JEFFREY E. EPSTEIN and FINANCIAL
TRUST COMPANY, INC.,

Defendants.

Index No. 02 Civ. 5332(SHS)

DECLARATION OF JEFFREY E. EPSTEIN

JEFFREY E. EPSTEIN declares under penalty of perjury pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am one of the Defendants in the above-captioned action and the sole shareholder, the President and a Director of Defendant Financial Trust Company, Inc. ("FTCI") and make this Declaration based upon my personal knowledge of the facts set forth herein. I submit this Declaration in opposition to Plaintiff's Motion for Summary Judgment.
2. I have been a legal resident of the U.S. Virgin Islands since 1999. I reside at Little St. James Island, in the U.S. Virgin Islands, which is an approximately 70 acre island that I have owned, through a wholly-owned limited liability company, since 1998.
3. I am registered to vote -- and have voted -- in the U.S. Virgin Islands. I have a current and valid U.S. Virgin Islands driver's license and firearms license, and maintain a personal bank account and IRA account in the U.S. Virgin Islands.
4. Through my wholly-owned limited liability company, which is also resident in the U.S. Virgin Islands, I employ approximately 20 people, maintain two more bank accounts, own two cars and three boats and maintain several telephone numbers, all in the U.S. Virgin Islands.

5. My only business is a U.S. Virgin Islands corporation organized in the U.S. Virgin Islands in 1999 as "Financial Trust Company, Inc." FTCL maintains its principal and only place of business, consisting of 2800 square feet of office space, in St. Thomas, U.S. Virgin Islands. All eleven of FTCL's employees, including myself, are U.S. Virgin Islands residents. FTCL is qualified under the U.S. Virgin Islands Economic Development Commission, as authorized under the laws of the U.S. Virgin Islands.

6. FTCL maintains three local bank accounts, a local IRA account and its books and records in the U.S. Virgin Islands. Between May 1999 and March 2002, FTCL maintained two bank accounts with the St. Thomas branch of Citibank.

7. FTCL is engaged in the business of providing financial and business consulting services from the U.S. Virgin Islands to its clients. In connection with its consulting business, FTCL makes investments in securities and other investments which we reasonably expect to be profitable and appropriate for ourselves and our clients.

8. My business dealings and relationship with Citigroup and its predecessor, Citicorp, date back to the 1980's. I became a client of the Citibank Private Bank in or about 1987. For approximately 15 years, Citicorp, Citibank and, ultimately, Citigroup provided banking and financial services to me and my business clients, through the Citibank Private Bank, which, upon information and belief, changed its name to the Citigroup Private Bank some time in 2001 (collectively, "Citigroup" or the "Private Bank"). The Citigroup "relationship manager" responsible for these services during most of that period was Dayle Davison.

9. In early 1999, I learned from Ms. Davison, an employee of the Private Bank, that Citigroup had targeted me as one of its most important individual clients and was seeking to

capitalize on its longstanding relationship with me to persuade me to purchase a wide array of additional financial products and financial services, which were now available from Citigroup.

10. Citibank began the hard-sell of their new products and services in or around late April of 1999, while I was in the U.S. Virgin Islands. At that time Citibank first introduced me to what was characterized as an exceptional investment opportunity involving a fund to be managed by AIG Global Investment Corp. ("AIG"). In a series of telephone calls which I received in the U.S. Virgin Islands between on or about April 20, 1999 and on or about May 2, 1999, employees of the Private Bank, including Ms. Davison, aggressively solicited my participation in this "opportunity" ultimately resulting in a substantial investment by FTCI in the amount of \$10 million (the "AIG Investment").

11. During that period, I remember telephone conversations with Ms. Davison, in which she counseled me to subscribe for the AIG Investment. She told me that it was an exceptional opportunity which has already generated so much preliminary interest that it will be substantially over-subscribed. Ms. Davison told me that Citigroup was offering this opportunity first to me, as one the Private Bank's most important clients, to ensure that I have an opportunity to subscribe. Ms. Davison also stated, in essence, that I was virtually assured of receiving an 18-20% return on my investment, with a possible return of as much as 30%. She further emphasized that Citibank "really did their due diligence" on this deal and was anticipating putting its own money in as an investor. Finally, Ms. Davison made affirmative assurances regarding my ability to protect my interest in the investment; she advised that I should not worry because Citibank was going to remain actively "involved in the deal," including possibly as an investor.

12. In light of Ms. Davison's statements regarding the exceptional merits of the AIG Investment, and particularly the fact that Citibank was anticipating making its own investment in the deal, I inquired whether Citibank was confident enough in the assurances Ms. Davison had made to me to loan me the necessary funds for the AIG Investment. After further discussion between me, Ms. Davison and other representatives of FTCI, Citibank offered to loan me \$10 million on the express condition that the loan be used exclusively to fund FTCI's investment in the AIG Investment.

13. I did not need to borrow the money for FTCI to make the AIG Investment. However, Citibank offered the loan at an interest rate substantially lower than the rate of the return that Ms. Davison assured would result from the AIG Investment. Moreover, Citibank promised to loan me the funds for the life of the AIG Investment.¹ Consequently, on the basis of Ms. Davison's assurances, I understood Citigroup to be offering me, as one of the Private Bank's most important clients, the opportunity to use Citibank's money to fund an investment by FTCI in a transaction that was assured of yielding a substantial net positive return, was backed by Citibank's extensive due diligence and would be protected by the continued involvement of Citibank, which was anticipating making an investment in the deal. Under the circumstances, I could not refuse such an offer.

14. At some point prior to August of 1999, I was provided with a so-called "Pitch Book" promoting the AIG Investment. I am certain that such materials did not contain any information that even remotely suggested to me that I had any reason to doubt Ms. Davison's assurances, or raise any concern that my long-standing bankers, and now advisors, were not

¹ The loan was originally structured as a 10-year loan in order to be coterminous with the AIG Investment. However, Ms. Davison asked me if I "would not mind" structuring the loan as a short-term loan because, she said, short-term loans are accounted for more favorably on the bank's books than long term loans. She assured me that

acting in my or FTCI's best interests in recommending this investment. To the contrary, I was persuaded by Ms. Davison's assurances that the Private Bank would be "involved" in the deal, including potentially as an investor.

15. Based upon all of the foregoing, I decided to proceed with the transaction that I had discussed with Ms. Davison, and on or about August 2, 1999, I executed a promissory note in the face amount of \$10 million in favor of Citibank (the "1999 Note"), and then, with the Private Bank's knowledge and approval, and, as required by Citibank, the loan proceeds were wired by Citibank to my Citibank account, and then transferred to FTCI's Citibank account, and then transferred to the bank account designated by Citibank for making the AIG Investment.

16. At some point, I also received an Offering Circular describing the AIG Investment. Based upon what I recall receiving I understood that investors such as FTCI would have the right to change the manager of the fund -- AIG -- by vote of a certain percentage of the investment or note holders.

17. This fact was very important to me since it represented the most significant way in which FTCI's interest in the AIG Investment could be protected in the event that the fund manager was not pursuing a favorable or successful investment strategy. In fact, I believed, based upon Ms. Davison's assurance that the Private Bank was going to be "involved," coupled with the fact that I understood that Citibank's affiliate -- Salomon Smith Barney -- was acting as Placement Agent, that, if there was ever a problem with the fund's management, in order to protect the collective interests of FTCI, Citigroup's other important clients and the Private Bank, itself, the Private Bank would have the ability to either influence the fund manager appropriately or amass the consent of the necessary interests in the fund to promptly replace the fund manager.

the maturity date of the loan would be extended annually, so that neither I, nor FTCI, would ever have to come out of pocket in connection with this investment.

18. During 2000, Ms. Davison spoke to me about another, similar investment fund, this one to be managed by MassMutual (the "MassMutual Fund"). I understood, based upon my prior discussions with Ms. Davison in 1999, that there would be additional investment opportunities similar to the AIG Investment, and I further understood the MassMutual Fund to be such an opportunity. There were negotiations between my representatives and legal advisors, including while they and I were in the U.S. Virgin Islands, and Ms. Davison and other representatives of Citigroup, including, but not limited to the Private Bank, concerning the MassMutual Fund. Ultimately, and based upon discussions substantially similar to those that occurred in 1999, I borrowed another \$10 million from Citibank, which funds were expressly required to be contemporaneously used by me to fund FTCI's investment in the MassMutual Fund. Again, I signed a promissory note payable to Citibank (the "2000 Note"), and the underlying funds were transferred from Citibank to my Citibank account, to FTCI's account, and then to the account designated by Citibank for the investment in the MassMutual Fund.

19. By the Spring of 2001, we made a shocking discovery. Largely through the review of monthly statements furnished by AIG, we discovered that the AIG Investment was suddenly and rapidly deteriorating, at a time when the similarly-structured MassMutual Fund appeared to be performing as expected. These inconsistent results suggested to me that the problems resided with the manager of the AIG Investment, as opposed to prevailing market conditions,² and that my bankers and advisors at the Private Bank were not monitoring the progress of this fund as Ms. Davison assured me they would.

20. At my insistence, in order to protect FTCI's sizeable investment, FTCI's advisors promptly initiated communications with Ms. Davison and other employees of the Private Bank to

² I note that FTCI's investment in the MassMutual Fund now also has drastically declined in value.

share our concerns, find out what was transpiring with the AIG Investment and to request that the Private Bank take action, including coordinating the replacement of the fund manager.

21. I understand that Ms. Davison initially indicated to FTCI's representatives that she would cooperate with FTCI in pursuing the removal of AIG as manager. However, I subsequently learned the horrifying truth of Citibank's betrayal. I was informed that not only was Ms. Davison unable to timely provide FTCI with the information we needed to pursue a change of managers, but that Citigroup/Citibank was unwilling to assist us at all since to do so would jeopardize an apparently more lucrative relationship that Citibank's affiliate, SSB, had with AIG.

22. Citibank's inability and, ultimately, unwillingness to assist FTCI in pursuing its rights in order to protect its interests, delayed FTCI from effectively pursuing its rights to change the manager of the AIG Investment, until such time that changing the manager would have been futile since the investment rapidly deteriorated to near zero.

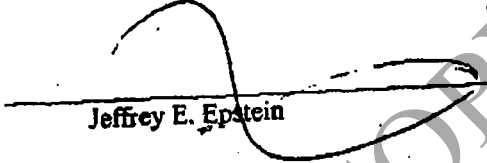
23. Prior to 2001, I had every reason to believe that the assurances on which I had based my decision to borrow the investment funds from Citibank and cause FTCI to subscribe for the AIG Investment were truthful. Prior to that time, I was never was informed by Ms. Davison or anyone else at Citigroup/Citibank, and never learned through my review of any of the materials provided to me, that Citigroup or Citibank or the Private Bank would in any way be unable or unwilling to assist me or FTCI in pursuing our rights with respect to the AIG Investment. Nor did I ever learn prior to 2001 that SSB had an investment banking relationship with AIG, much less a relationship that my bankers and advisors would hold in higher regard than my long-standing relationship with the Private Bank.

24. Had I known of these conflicts and the fact that the Private Bank's advice and recommendation was impaired and tainted in such a meaningful way, or that Ms. Davison's assurances that Citibank would be "involved" in the deal were untrue in any way, I never would have proceeded with either the AIG Investment or the MassMutual Fund, never would have executed either the 1999 Note or the 2000 Note, and never would have caused FTCI to invest \$20 million in the investments that were being "placed" by SSB.

25. I now understand that FTCI's interest in the AIG Investment is nearly worthless, and further that FTCI's interest in the MassMutual Fund has drastically decreased in value.

26. For the foregoing reasons, and those set forth in the accompanying memorandum of law and other submissions made on my and FTCL's behalf, I respectfully request that the Court deny Citibank's motion in its entirety.

Executed this ___ day of October, 2002


Jeffrey E. Epstein



Bradley J. Edwards
Direct Dial: 954-315-7266
bedwards@rra-law.com

July 22, 2009

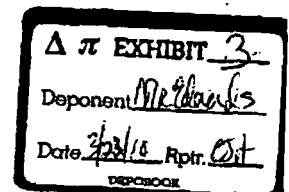
Via Facsimile:

305-931-0877 Adam D. Horowitz, Esquire
Stuart S. Mermelstein, Esquire
561-832-7137 Isidro Manuel Garcia, Esquire
305-931-0877 Jeffrey Marc Herman, Esquire
305-358-2382 Katherine Earthen Ezell, Esquire
Robert C. Josefsberg, Esquire
561-684-5707 Jack Hill, Esquire

Dear Counsel,

We have recently received Notice for Depositions from Adam Horowitz for several witnesses and the lever from Jack Hill indicating an intent to take others. We intend to Cross-Notice each deposition. Additionally, we intend to set the following other individuals for video deposition:

1. Donald Trump (West Palm Beach)
2. Glen Dubin (West Palm Beach)
3. Ghislain Maxwell (New York)
4. Sara Keller (New York)
5. Leslie Wexner (Ohio)
6. Bill Clinton (D.C.)
7. Paula-Heil.-(New York)
8. Jean -Luc Bruhel (New York)



Reply To: Los Otes City Centre • 401 East Los Otes Boulevard • Suite 1850 • Fort Lauderdale, Florida 33301 Telephone: (954) 522-3455 • Fax: (954) 527-8863
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We will choose dates that have not already been occupied by other depositions already set in this case. If you would like to be included in the scheduling of these depositions, please provide me with your scheduling secretaries' names and e-mail addresses. If any of you do not need to be consulted regarding the scheduling of these depositions, please advise me of that as well.

Very truly yours,
ROTHSTEIN ROSENFELDT ADLER



Bradley J. Edwards, Esquire
Partner
For the Firm
BJE/mgl

NOT A CERTIFIED COPY

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

JANE DOE NO. 2,

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

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE NO. 3,

CASE NO: 08-CV-80232-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE NO. 4,

CASE NO: 08-CV-80380-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

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

JANE DOE NO. 5,

CASE NO: 08-CV-80381-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE NO. 6:

CASE NO: 08-CV-80994-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE NO. 7,

CASE NO: 08-CV-80993-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

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

CASE NO: 08-CV-80811-MARRA/JOHNSON

C.M.A.,

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE,

CASE NO. 08-CV-80893-CIV-MARRA/JOHNSON

Plaintiff,

Vs.

JEFFREY EPSTEIN, et al.

Defendant.

DOE II,

CASE NO: 09-CV-80469-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN, et al.

Defendants.

JANE DOE NO. 101,

CASE NO: 08-CV-80119-MARRA/JOHNSON
CASE NO: 09-CV-80591-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

JANE DOE NO. 102,

CASE NO: 09-CV-80656-MARRA/JOHNSON

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

**PLAINTIFF, JANE DOE'S MOTION FOR INJUNCTION RESTRAINING
FRAUDULENT TRANSFER OF ASSETS, APPOINTMENT OF A RECEIVER TO
TAKE CHARGE OF PROPERTY OF EPSTEIN, AND TO POST A \$15 MILLION BOND
TO SECURE POTENTIAL JUDGMENT**

COMES NOW Plaintiff Jane Doe, by and through undersigned counsel, and hereby files this Motion for Injunction, pursuant to Federal Rule of Civil Procedure 64, for appointment of a receiver to take charge of Epstein's property, and to post a \$15 million bond to secure any potential judgment in this case, for the reasons explained in the accompanying supporting memorandum.

Plaintiff Jane Doe, by and through her undersigned counsel, files this memorandum in support of her motion for appointment of a receiver to take charge of

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Epstein's property and to post a \$15 million bond to secure any potential judgment in this case.

Epstein is a billionaire who recently has been fraudulently transferring his assets overseas and elsewhere with the intent to prevent Jane Doe (and possibly numerous other victims of his sexual abuse) from satisfying any judgment they might obtain against him. Federal Rule of Civil Procedure 64 guarantees Jane Doe all available state law pre-judgment remedies to respond to these fraudulent transfers. Florida has adopted the Florida Uniform Fraudulent Transfer Act (FUFTA), Fla. Stat. Ann. § 726.101 *et seq.*, which gives the Court power to appoint a receiver to take charge of assets that are being fraudulently transferred. Given the serious allegations of sexual abuse against Jane Doe when she was a minor, this Court should appoint a receiver to control and account for Epstein's assets and direct the receiver to post a \$15 million bond with this Court on behalf of Epstein to satisfy any judgment that Jane Doe might obtain.

STATEMENT OF MATERIAL FACTS

1. Defendant Jeffrey Epstein is the defendant in this action, which involves claims by Jane Doe that Epstein repeatedly sexually abused her when she was a minor. Because of the egregious and repeated acts of sexual abuse committed by Epstein, her complaint seeks damages in excess of \$50 million, including punitive damages. See Amended Complaint, ¶ 2.

2. Defendant Jeffrey Epstein is extremely wealthy. According to reputable press reports in the *New York Times* and elsewhere, he is a billionaire. He is also the owner

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of a Caribbean island in the Virgin Islands (Little St. James Island), where he serves as a financial advisor to other billionaires. He was previously a financial trader at Bear Stearns. It is therefore reasonable to infer that he has a great deal of financial sophistication. See Affidavit of Paul Cassell at ¶ 2 Attachment A to this Pleading.

3. According to reputable press reports, before his recent incarceration (discussed below), he frequently traveled around the globe in the company of such famous persons as President Bill Clinton, Prince Andrew, and Donald Trump. It is therefore reasonable to infer that he has international contacts, including international financial contacts. See Affidavit of Paul Cassell at ¶ 3.

4. Over the past year, approximately 25 civil suits have been filed in Florida state courts and Florida federal courts raising similar allegations of sexual abuse by Jeffrey Epstein against minor girls. These complaints seek damages comparable to those sought by Jane Doe in this case. See Affidavit of Paul Cassell at ¶ 4. Accordingly, Epstein has currently pending against him lawsuits seeking more than \$1 billion in damages. He thus faces financial ruin. *Id.*

5. On June 30, 2008, Jeffrey Epstein pled guilty to one count of procuring a person under 18 for prostitution and one count of felony solicitation to prostitution before the Circuit Court of the Fifteenth Judicial circuit in and for Palm Beach County, Florida. He was sentenced to 18 months in jail.

6. Since those guilty pleas, he has been incarcerated in the Palm Beach County Detention facility. However, he has also been allowed out on a "work release" program, where he works at managing his financial interests. Affidavit of Paul Cassell at ¶ 5.

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7. Given the substantial claims against him, his international connections, and other information, Jane Doe's counsel has been gravely concerned that Epstein will fraudulently transfer all of his assets to overseas locations to defeat collection of any judgment that she might obtain against him. Accordingly, as part of discovery in this case, Jane Doe propounded requests for admissions by Epstein regarding whether he was fraudulently transferring assets. Rather than answering these requests for admission about on-going fraudulent transfers of his property, Jeffrey Epstein asserted his Fifth Amendment right against self-incrimination. Affidavit of Paul Cassell at ¶ 6.

8. Jeffrey Epstein's net worth is greater than \$1 billion. Jane Doe's First Request for Admissions (RFA's) #5, Attachment B to this Pleading; Epstein's Resp. to RFA's #5, Attachment C to this Pleading.

9. Since he was incarcerated, Jeffrey Epstein has, directly or indirectly (through the services or assistance of other persons) conveyed money and assets in an attempt to insulate and protect his money and assets from being captures in civil lawsuits filed against him. Epstein's Resp. to RFAs #6.

10. Epstein owns and controls real estate property in foreign countries, including the Caribbean. Epstein's Resp. to RFAs #7 and #8.

11. Epstein is currently moving significant financial assets overseas, outside of the direct territorial reach of federal and Florida courts. Epstein's Resp. to RFA #21.

12. Epstein is transferring these assets with the intent to defeat any judgment that might be entered against him in this and other similar cases. Epstein's Resp. to RFA #22.

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13. Epstein could currently post a \$15 million bond to satisfy a judgment in this case without financial or other difficulty. Epstein's Resp. to RFA #23.

14. Epstein has blocked all discovery, in this and other related cases, regarding his assets. Affidavit of Paul Cassell at ¶¶ 7, 8.

ARGUMENT

I. EPSTEIN IS FRAUDULENTLY TRANSFERRING HIS ASSETS.

As noted in the material facts above, defendant Epstein is currently making fraudulent transfers of his assets. In particular, he is currently moving significant financial assets overseas, outside of the direct territorial reach of Federal and Florida courts, and is doing so with the specific intent to defeat any judgment that might be entered against him in this and other similar cases. Statement of Material Facts #11 and #12.

Because these material facts rest, in part, on Epstein's invocation of his Fifth Amendment privilege against self-incrimination, it is pertinent to note that Jane Doe is entitled to an adverse inference from his invocation of his Fifth Amendment rights when asked whether he was fraudulently transferring his assets overseas. Jane Doe propounded requests for admission to Epstein that asked specifically about on-going fraudulent transfers of assets. In response, Epstein asserted his Fifth Amendment right to refuse to answer incriminating questions. Of course, Epstein's "Invocation of his Fifth Amendment privilege, like the assertion of any privilege, stands in stark opposition to the otherwise liberal discovery rules, and 'undermine[s] to some degree the trial system's capacity to ascertain the truth.'" *United States ex rel. DRC, Inc. v. Custer Battles, LLC*, 415 F.Supp.2d 628, 632 (E.D. Va. 2006) (quoting Robert Heidt, *The*

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Conjurer's Circle – The Fifth Amendment Privilege in Civil Cases, 91 YALE L.J. 1062, 1082 (1982)). As a result, where a witness refuses to testify in a civil case on Fifth Amendment grounds, the permissible inference is that the witness's testimony, had it been given, "would not have been favorable to the claim." *United States v. A Single Family Residence*, 803 F.2d 625, 629 n.4 (11th Cir. 1986). Of course, the Fifth Amendment is not violated by such an inference. The concerns animating the Fifth Amendment right against self-incrimination are not in play "[i]n a civil suit involving only private parties" because "no party brings to the battle the awesome powers of the government, and therefore to permit an adverse inference to be drawn from exercise of the privilege does not implicate the policy considerations underlying the privilege." *Baxter v. Palmigiano*, 425 U.S.308, 335 (1976).

An adverse inference is entirely justified in this case. Epstein has remained silent when asked such straightforward requests for admissions:

- Since being incarcerated you have, directly or indirectly (through the services or assistance of other persons), conveyed money or assets in an attempt to insulate or protect your money or assets from being captured in any civil lawsuits filed against you. RFA's #6.
- You are moving significant financial assets overseas, outside of the direct territorial reach of the U.S. and Florida Courts. RFA's #21.
- You are making asset transfers with the intent to defeat any judgment that might be entered against you in this or similar cases. RFA's #22.

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The silence in the face of these questions speaks far louder than words. As Justice Brandeis recognized long ago, "[s]ilence is often evidence of the most persuasive character." *Baxter v. Palmigiano*, 425 U.S. 308, 319 (1976) (quoting *U.S. ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 153-54 (1923)). This is plainly one of those situations.

In a civil case, drawing an adverse inference is the proper action for a court to take when a litigant blocks legitimate discovery through exercise of a Fifth Amendment invocation. "[W]hile there is no doubt that a witness is entitled to assert the privilege in a civil case, it is also clear that an adverse inference based on a refusal to answer in a civil case is an appropriate remedy, as it provides some relief for the civil litigant whose case is unfairly prejudiced by a witness' assertion of the Fifth Amendment privilege without placing the witness in the 'cruel trilemma' of choosing among incrimination, perjury, or contempt." *United States ex rel. DRC, Inc. v. Custer Battles, LLC*, 415 F.Supp.2d 628, 633 (E.D. Va. 2006). The Eleventh Circuit has not hesitated to support district courts that draw an adverse inference from silence. For example, in *United States v. Two Parcels of Real Property*, 92 F.3d 1123, 1129 (11th Cir. 1996), the district court drew an adverse inference when claimants to real property refused to answer questions regarding the property. The Eleventh Circuit affirmed that decision, explaining that "[t]his Court has held . . . that the trier of fact may take an adverse inference against parties to a civil action refusing to testify on Fifth Amendment grounds. *Id.* at 1129 (citing *United States v. A Single Family Residence*, 803 F.2d 625, 629 n.4 (11th Cir. 1986)). Similarly, in *Arango v. U.S. Dept. of the Treasury*, 115 F.3d 922, 926 (11th Cir. 1997), the Eleventh Circuit explained that "the First Amendment

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does not forbid adverse inferences against civil litigants . . . who assert the privilege against self-incrimination."

Here an adverse inference is entirely appropriate. In addition to Epstein's refusal to answer questions, there are strong circumstantial reasons for believing he is hiding his assets. As explained above, see Statement of Material Facts #1 through #3, Epstein clearly has the *means* to hide his assets -- he is a sophisticated financial advisor. And given that the sexual abuse lawsuits brought against Epstein threaten him with financial ruin -- he has a clear *motive* for hiding his substantial assets. Finally, Epstein is currently on work release, running his financial affairs from his office -- giving him the clear *opportunity* to make the necessary arrangements to move his assets to overseas or other unreachable locations. Thus, there is a "perfect circumstantial evidence case that [Epstein] ha[s] means, motive, and opportunity" to fraudulently transfer assets. See *United States v. Sparks*, 265 F.3d 825, 830 (9th Cir. 2001) (finding probable cause for an arrest based solely on a showing of means, motive, and opportunity). The fact that this evidence is circumstantial rather than direct proof of the transfers is irrelevant, because "circumstantial evidence is not less probative than direct evidence, and, in some cases is even more reliable." *United States v. Ranum*, 96 F.3d 1020, 1026 (7th Cir. 1996) (quoting *United States v. Hatchett*, 31 F.3d 1411, 1421 (7th Cir. 1994)).

For all these reasons, the Court should conclude that Epstein is fraudulently transferring assets.

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II. JANE DOE IS ENTITLED TO THE PROTECTIONS OF THE UNIFORM
FRAUDULENT TRANSFER ACT AS ADOPTED BY FLORIDA

In light of Epstein's fraudulent asset transfers, Jane Doe is entitled to pre-judgment remedies to protect her against Epstein's efforts to block her from satisfying the judgment she is likely to ultimately obtain in this case. Federal Rule of Civil Procedure 64 guarantees Jane Doe during the course of this suit "all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action" that are "available under the circumstances and in the manner provided by the law of the state in which the court is held." The Rule goes on to provide that "[t]he remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated and regardless of whether by state procedure the remedy is ancillary to an action or must be obtained by an independent action." This "long-settled federal law provid[es] that in all cases in federal court . . . state law is incorporated to determine the availability of prejudgment remedies for the seizure of person or property to secure satisfaction of the judgment ultimately entered." *Rosen v. Cascade Intern., Inc.*, 21 F.3d 1520, 1531 (11th Cir. 1994). Accordingly, under this Rule, this Court looks to Florida law to determine Jane Doe's rights to pre-judgment relief.

To prevent fraudulent transfers of assets before judgment, Florida has adopted the Uniform Fraudulent Transfer Act. Fla. Stat. Ann. § 726.101 *et seq.* Under the Florida's Uniform Transfer Act (FUFTA), courts are broadly empowered to take action to block certain "fraudulent transfers" of assets. Jane Doe is accordingly entitled to invoke the remedies under this Act if Epstein is making "fraudulent transfers" of his assets.

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The Act defines a "fraudulent" transfer of assets as one made "[w]ith actual intent to hinder, delay, or defraud any creditor of the debtor." Fla. Stat. Ann. § 726.105(1)(a). The FUFTA also contains a "quite broad" definition of "transfer." *Nationsbank, N.A. v. Coastal Utilities, Inc.*, 814 So.2d 1227, 1230 (Fla. Ct. Apps. 2002). It extends to "every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance." Fla. Stat. Ann. § 726.102(12). This "broad definition includes 'every' mode of disposing of an asset and does not limit the statute to direct transactions made by the debtor him/herself." *Nationsbank, N.A. v. Coastal Utilities, Inc.*, 814 So.2d 1230. As noted above, Epstein is transferring his assets with the intent to defeat any judgment that might be entered against him in this and other similar cases, see Statement of Material Facts #12, and therefore is plainly covered by the Act.

The FUFTA extends its protections to "creditors" – such as Jane Doe, who is a "creditor" of Epstein's within the meaning of the Act. The FUFTA extends its protections not merely to judgment creditors, but more widely to future creditors who have a "claim," including a "claim" that has not yet been reduced to judgment. See Fla. Stat. Ann. § 726.102(2) (defining a claim as a "right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured."); Fla. Stat. Ann. § (defining creditor protected by the act as "a person who has a claim"). See generally *Freeman v. First Union Nat. Bank*, 865 So.2d 1272, 1277 (Fla. 2004) (noting that the definition of

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claim is "broadly constructed" under the FUFTA). This means that "as is universally accepted, as well as settled in Florida, a 'claim' under the Act may be maintained even though contingent and not yet reduced to judgment." *Freeman*, 865 at 1277 (internal quotations omitted). In Florida, then, "tort claimants are as fully protected against fraudulent transfers as holders of absolute claims." *Id.* at 1277 (quoting *Money v. Powell*, 139 So.2d 702, 703 (Fla. Ct. Apps. 1962). Jane Doe is, of course, a tort claimant against Epstein.

For all these reasons, Jane is entitled to the full protections of the Florida Uniform Fraudulent Transfer Act.

III. UNDER THE UNIFORM FRAUDULENT TRANSFER ACT, JANE DOE IS ENTITLED TO THE REMEDIES OF APPOINTMENT OF A RECEIVER TO TAKE CHARGE OF EPSTEIN'S ASSETS, FILE AN ACCOUNTING OF THOSE ASSETS WITH THE COURT, AND TO POST A \$15 MILLION BOND

Under the Uniform Fraudulent Transfer Act, this Court is given broad powers to prevent fraudulent transfers of assets. The remedies provided by the Act specifically include:

1. An injunction against further disposition by the debtor . . . of the asset transferred;
2. Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or
3. Any other relief the circumstances may require. Fla. Stat. Ann. § 726.108(c).

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Jane Doe seeks one of these specifically provided remedies – namely, appointment of a receiver to take charge of Epstein's assets. Appointment of a receiver will serve three important goals: first, if a receiver has control of Epstein's assets, Epstein's ability to further transfer those assets will be blocked; second, the receiver can provide an accounting of Epstein's assets, allowing Jane Doe (and the Court) to take whatever other action may be appropriate; and, third, the receiver can post a bond of \$15 million with the Court so that Jane Doe will have funds to satisfy any judgment that she might obtain.

The Court should appoint a receiver to account for Epstein's assets. The appointment of a receiver is directly authorized by the FUFTA. Fla. Stat. Ann. § 726.108(c); see *Freeman v. First Union Nat. Bank*, 865 So.2d 1272, 1277 (Fla. 2004) (noting that appointment of a receiver is remedy provided by the FUFTA). A receiver is the only way to start to block further dissipation of assets – by, first, gaining control over Epstein's assets and then, second, making an accounting of what assets of Epstein's remain in this country or are otherwise subject to control by this Court. Given Epstein's Fifth Amendment invocations and other obstructions regarding any discovery concerning his assets, see Statement of Material Facts #14, it is currently impossible for Jane Doe to protect her interests in blocking Epstein's fraudulent transfers. Indeed, one of the other remedies specifically specified in the Act – “[a]n injunction against further disposition by the debtor . . . of the asset transferred” – is presumably unworkable given that there is no way to know what assets Epstein possesses, much less where he is transferring them to. Cf. *Special Purpose Accounts Receivable Co-op Corp. v. Prime One Capital Co., L.L.C.*, 2007 WL 4482611 (S.D. Fla. 2007) (Marra, J.) (refusing to

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apply any heightened pleading requirements to UFTA claims "[g]iven this lack of access to information on the part of a plaintiff in a fraudulent transfer case"). Jane Doe therefore needs a receiver to account for Epstein's assets to the Court.

The receiver should make a report to the Court regarding Epstein's assets so that Jane Doe can determine what additional further action is required. For example, Jane Doe might need to take action to set aside various transfers. But even now, it is clear that the receiver should take one additional step: Once a receiver is appointed and accounts for Epstein's assets, the receiver should post a \$15 million bond on behalf of Epstein with the Clerk of the Court in order to satisfy any judgment that Jane Doe might obtain in this case.

A \$15 million bond is reasonable. First, given Epstein's tremendous net worth, he can post a \$15 million bond without any financial or other difficulty. See Statement of Material Facts #13. Second, given the egregious acts of sexual abuse Epstein committed against Jane Doe (who was a minor at the time) – and the punitive damages claim present in this case – \$15 million is a reasonable bond amount given the nature of the judgment that Jane Doe is likely to obtain at trial. Jane Doe seeks more than \$50 million damages. See First Amended Complaint, ¶ 1. Her complaint alleges that Jeffrey Epstein had a sexual obsession for minor girls. *Id.* at ¶ 10. To satisfy that obsession, Epstein engaged in an elaborate scheme whereby his assistants recruited minor girls for the purpose of engaging in prostitution. *Id.* at ¶ 11. Her complaint explains that:

Beginning in approximately February 2003 and continuing until approximately June 2005, the defendant coerced and enticed the impressionable, vulnerable, and economically deprived then minor [Jane

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Doe) in order to commit various acts of sexual misconduct against her. These acts included, but were not limited to, fondling and inappropriate and illegal sexual touching of the then minor [Jane Doe], sexual misconduct and masturbation of Defendant, Jeffrey Epstein, in the presence of the then minor Plaintiff, and encouraging and coercing the then minor Plaintiff to become involved in prostitution.

Id. at ¶ 18. Jane Doe finally notes that in June 2009, Epstein entered pleas of "guilty" to various Florida state crimes involving the solicitation of minors for prostitution and the procurement of minors for the purposes of prostitution, for which Defendant Epstein was sentenced to 18 months incarceration in Palm Beach County jail to be followed by 12 months community control (house arrest). *Id.* at ¶ 22.

Jane Doe has propounded various discovery requests regarding these allegations to Jeffrey Epstein. It is noteworthy that Epstein has asserted a Fifth Amendment self-incrimination privilege to these requests, rather than provide answers. For example, Jane Doe has asked Epstein to admit that he committed sexual assault against Jane Doe when she was minor. Plaintiff's First Request for Admissions to Defendant Epstein 11. In response, Epstein asserted his Fifth Amendment privilege not to incriminate himself.

For all these reasons, directing the receiver to post a \$15 million bond on behalf of Epstein is reasonable under the circumstances.

The UFTA "also grants the court equity powers to remedy . . . fraud." *Invo Florida, Inc. v. Somerset Venturer, Inc.*, 751 So.2d 1263, 1267 (Fla. Ct. Apps. 2000). The FUFTA's provisions are "supplement[ed]" by "the principles of law and equity." Fla. Stat. Ann. § 726.111. It is well-settled that "[a]n equitable action requires equitable relief." *Prince v. Tyler*, 890 So.2d 246, 251 (Fla. 2004), and "equity will do what ought to

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be done.” *Sterling v. Brevard County*, 776 So.2d 281, 284 (Fla. Ct. Apps. 2000). The Court should therefore also exercise its equitable powers to impose the same remedies that Jane Doe requests.

Of course, in equity, the Court considers the relative positions of the two claimants. Here, Jane Doe has presented substantial claims of sexual abuse against her while a minor, while Epstein (who pled guilty to felony charges involving such conduct) has taken the Fifth Amendment rather than answer questions about his sexual abuse of Jane Doe. If Jane Doe does not obtain the remedy that she is requesting, then Epstein may well be able to move all of his assets to unreachable locations, leaving her with a substantial tort claim and no possible way to satisfy it. On the other hand, appointing a receiver will not interfere with any legitimate interest of Epstein, particularly given his phenomenal wealth.

When this Court proceeds in equity, it “will not suffer a wrong to be without a remedy.” *Connell v. Mittendorf*, 147 So.2d 169, 172 (Fla. Ct. Apps. 1962). This case cries out for the Court to intercede and take action to avoid allowing a confessed and wealthy sex offender from concealing his assets and depriving his victims – including Jane Doe – from satisfying any judgment that they may well obtain against him. A receiver with control over Epstein’s assets is a modest and entirely appropriate step to take given Epstein’s actions.

For the consideration of the Court, a proposed order adopting these remedies is attached to this pleading.

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CONCLUSION

WHEREFORE, in view of the fraudulent transfers being made by Jeffrey Epstein to prevent Jane Doe from satisfying any judgment she might obtain in this case, the Court should appoint a receiver to take charge of Epstein's property and direct the receiver to provide the Court with an accounting of Epstein's assets and post a \$15 million bond to secure any potential judgment that Jane Doe might obtain in this case.

DATED this 19th day of June, 2009.

Respectfully Submitted,

s/ Bradley J. Edwards
Bradley J. Edwards
ROTHSTEIN ROSENFELDT ADLER
Las Olas City Centre
401 East Las Olas Blvd., Suite 1650
Fort Lauderdale, Florida 33301
Telephone (954) 522-3456
Facsimile (954) 527-8663
Florida Bar No.: 542075
E-mail: bedwards@rra-law.com

And

Paul G. Cassell
Pro Hac Vice
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

CASE NO: 08-CV-80119-MARRA/JOHNSON
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 19, 2009, 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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SERVICE LIST

Jane Doe v. Jeffrey Epstein
United States District Court, Southern District of Florida

Jack Alan Goldberger, Esq.
Jgoldberger@agwpa.com

Robert D. Critton, Esq.
rcritton@bclclaw.com

Isidro Manual Garcia
isidrogarcia@bellsouth.net

Jack Patrick Hill
iph@searcylaw.com

Katherine Warthen Ezell
KEzell@podhurst.com

Michael James Pike
MPike@bclclaw.com

Paul G. Cassell
cassellp@bclclaw.com

Richard Horace Willits
lawyerswillits@aol.com

Robert C. Josefsberg
rjosefsberg@podhurst.com

Adam D. Horowitz
ahorowitz@sexabuseattorney.com

Stuart S. Mermelstein
ssm@sexabuseattorney.com

William J. Berger
wberger@rra-law.com

AFFIDAVIT OF PAUL G. CASSELL, ESQUIRE

1. I, Paul Cassell, have person knowledge of the matters set forth herein. I am an attorney licensed to practice in the State of Utah since 1992. My office is located at the University of Utah College of Law, where I am a law professor. Along with other attorneys, I represent plaintiff Jane Doe in this matter.

2. It appears that defendant Jeffrey Epstein is an extremely wealthy individual. According to reputable press reports, his net worth is in the hundreds of millions of dollars – if not, indeed, a billion dollars. *See, e.g.,* New York Time, July 1, 2008, at A2 (“Over the weekend Jeffrey E. Epstein, who after years of advising billionaires became a billionaire himself, left his estate on Little St. James Island, with its staff of 70 and its flamingo-stocked lagoon, boarded a private helicopter and flew to Florida. There, he turned himself in at the Palm Beach County jail and began serving 18 months for soliciting prostitution.”). According to the Wikipedia entry about Jeffrey Epstein, he is a billionaire and owner of a private island in the Virgin Island (Little St. James Island), and was a financial trader at Bear Stearns. He then founded his own financial management firm, J.



Epstein and Col, later called Financial Trust Co., located on his private island in the U.S. Virgin Island. He reportedly only took billionaire clients.

3. Other attorneys and I have made repeated efforts to find published information about defendant Jeffrey Epstein in general and his financial dealings in particular. The most detailed published source of information about defendant Jeffrey Epstein that I have been able to locate is an article that was published in *Vanity Fair* by Vicky Ward. Vicky Ward is a contributing editor to *Vanity Fair*, a contributor to CNBC, and a weekly columnist for the *London Evening Standard*. The article can be found in the internet at <http://vickyward.com/wordpress/archives/30/>

4. According to the *Vanity Fair* article, defendant Jeffrey Epstein became wealthy by managing the financial assets of other billionaires. He reportedly limited his clients to those whose net worth was more than \$1 billion. Unlike other fund managers, however, Epstein kept all his deals and clients secret (with one exception – billionaire Leslie Wexner – who Epstein claims was his mentor). He has great skills in trading in international currency markets, which helped him make money for himself and his clients. As a result, it is reasonable to infer that he

has significant financial sophistication, including sophistication about the international transfer of financial instruments and other assets.

5. According to the *Vanity Fair* article, defendant Jeffrey Epstein's real mentor was not Leslie Wexner, but Steven Jude Hoffenberg, who was sent to federal prison for twenty years for bilking investors out of more than \$450 million in one of the largest Ponzi schemes in American history. Epstein assisted Hoffenberg with (failed) takeover bids of Pan American World Airways and Emery Air Freight.

6. According to the *Vanity Fair* article, before working with Wexner and Hoffenberg, defendant Jeffrey Epstein worked with Bearn Stearns. He left the firm very suddenly in 1981 after being questioned by S.E.C. investigators in an insider trading scandal involving several Italian and Swiss investors.

7. According to the *Vanity Fair* article, Epstein recently owned (and thus may still own) a Boeing 727 with a trading room.

8. Vicky Ward published a follow-up note to her earlier article in May 2008. It can be found at <http://www.vanityfair.com/online/daily/2008/05/vicky->

ward-you.html. According to this note, rumors were circulating (to celebrities such as Dustin Hoffman, Alec Baldwin, and filmmaker Michael Mailer) that Epstein was moving all of his considerable assets to Israel. The note also indicated that, having written the earlier detailed article about Epstein, Ward was now frequently viewed as an "expert" on Epstein.

9. According to reputable press reports, Jeffrey Epstein has travelled internationally with Donald Trump, former President Bill Clinton, and Prince Andrew. *See, e.g.,* The Daily Mail, *Prince Andrew's Billionaire Friend is Accused of Preying on Girl of 14*, Apr. 29, 2007, <http://www.dailymail.co.uk/news/article-451372/Prince-Andrews-billionaire-friend-accused-preying-girl-14.html> ("One of Prince Andrew's closest friends [Jeffrey Epstein] is being investigated by the FBI for allegedly paying under-age girls for tawdry sexual encounters."). It is therefore reasonable to infer that he has international contacts, including international financial contacts.

10. Approximately 25 civil suits have been filed in Florida state courts and Florida federal courts raising similar allegations against Jeffrey Epstein. These complaints seek damages comparable to those sought by Jane Doe in this case. Accordingly, Epstein has currently pending against him lawsuits seeking more than

\$1 billion in damages. Even given his great wealth, it appears that the lawsuits against him could well lead to his financial ruin, unless he is able to conceal his assets so that the plaintiffs in these cases are unable to reach them.

11. Since his guilty plea in state court, he has been incarcerated in the Palm Beach County Detention facility. I have been advised, however, that he has currently been allowed out on a "work release" program, where he works at managing his financial interests.


12. Because of his overseas contacts, other plaintiff attorneys and I have been greatly concerned that Epstein might attempt to transfer many of his assets overseas with the intent to defeat any judgment that might be entered against him. I have also received reports, that I am attempting to substantiate, that Epstein is transferring his assets out of the country at this time with the intent to make it impossible for Jane Doe and other plaintiffs to satisfy any significant judgment that they might obtain against him. In light of these reports, other attorneys and I have propounded the requests for admission regarding fraudulent asset transfers discussed in the pending motion.

13. In this case, Epstein has blocked all discovery regarding the current location of his assets and recent fraudulent transfers of his assets, by asserting a Fifth Amendment privilege against self-incrimination. With other attorneys working on this case (and related cases), I have wanted to obtain direct, first hand information regarding Epstein's financial dealings, but have been blocked for doing so by Epstein. Therefore, I have been forced to rely on reputable press reports for information about these dealings.

14. In the similar sexual abuse lawsuits filed against Epstein, other plaintiffs attorneys have advised that Epstein has likewise blocked all discovery regarding his finances with Fifth Amendment invocations or other interposed obstructions.

I swear the foregoing to be truthful under the penalty of perjury.

FURTHER THE AFFIANT SAYETH NAUGHT.



Paul G. Cassell

NOT A CERTIFIED COPY

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

CASE NO: 08-CV-80893-MARRA/JOHNSON

JANE DOE,

Plaintiff

vs.

JEFFREY EPSTEIN,

Defendant

PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS TO DEFENDANT

COMES NOW the Plaintiff, Jane Doe, by and through her undersigned counsel, and files this her First Request for Admissions to the Defendant, JEFFREY EPSTEIN, and requests said Defendant admit or deny the following facts, in accordance with Federal Rules of Civil Procedure:

DEFINITIONS

The term "you" means and refers to the Defendant, JEFFREY EPSTEIN.

ADMISSIONS

1. Your net worth is greater than \$10 million.
2. Your net worth is greater than \$50 million.
3. Your net worth is greater than \$100 million.
4. Your net worth is greater than \$500 million.



5. Your net worth is greater than \$1 billion.
6. Since being incarcerated you have, directly or indirectly (through the services or assistance of other persons), conveyed money or assets in an attempt to insulate or protect your money or assets from being captured in any civil lawsuits filed against you.
7. You own or control, directly or indirectly, real estate property in the Caribbean.
8. You own or control, directly or indirectly, real estate property in foreign countries.
9. In the last 2 years you have transferred assets and/or money and/or financial instruments to countries outside the United States.
10. You have provided financial support to the modeling agency MC2.
11. You committed sexual assault against Plaintiff, a minor.
12. You committed battery against Plaintiff.
13. You digitally penetrated Plaintiff when she was a minor.
14. You offered Plaintiff more money contingent upon her having sex with you or giving you oral sex.
15. You intended to harm Plaintiff when you committed these sexual acts against her.
16. You knew Plaintiff was under the age of 16 when you sexually touched and fondled her.
17. You intend to hire investigators to intimidate and harass Plaintiff during this litigation.
18. You were engaged in the act of trafficking minors across state or country borders for the purposes of sex or prostitution between 2000 and the present.
19. You coerced Plaintiff into being a prostitute and remaining in prostitution.

20. You are guilty of the following offenses against Jane Doe:

- A. Procuring a minor for the purpose of prostitution as defined in F.S. 796.03
- B. Battery as defined by Florida Statutes
- C. Sexual Battery

21. You are moving significant financial assets overseas, outside of the direct territorial reach of the U.S. and Florida Courts.

22. You are making asset transfers with the intent to defeat any judgment that might be entered against you in this or similar cases.

23. You currently have the ability to post a bond of \$15 million to satisfy a judgment in this case without financial or other difficulty.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided via United States mail to the following addressees, this 23 day of March, 2009.

Robert D. Critton, Jr., Esquire
Michael J. Pike, Esquire
Burman, Critton, Luttier & Coleman, LLP
515 North Flagler Drive
Suite 400
West Palm Beach, Florida 33401
rcrit@bclclaw.com
mpike@bclclaw.com

Jack Alan Goldberger, Esquire
Atterbury, Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, Florida 33401
jagesq@bellsouth.net

Michael R. Tein, Esquire
Lewis Tein, P.L.
3059 Grand Avenue
Suite 340
Coconut Grove, Florida 33133
tein@lewistein.com

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &
ASSOCIATES, LLC

By: 

Brad Edwards, Esquire
Attorney for Plaintiff
Florida Bar No. 542075
2028 Harrison Street
Suite 202
Hollywood, Florida 33020
Telephone: 954-414-8033
Facsimile: 954-924-1530
E-Mail: be@bradedwardslaw.com

Paul G. Cassell
Attorney for Plaintiff
Pro Hac Vice
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu