

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 #5'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 #5 (case #80381), 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

Page 2

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 #5.

3. Plaintiff has alleged in her action that Defendant sexually battered her and, as a result, Plaintiff seeks millions of dollars in personal injury damages for, among other things, "confusion, shame, humiliation, embarrassment, and severe psychological and emotional injuries." See Second Amended Complaint. (DE 60) Plaintiff, Jane Doe #5, 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 ¶¶ 17-21. Jane Doe #5 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 ¶¶ 25-27.

4. In addition, Jane Doe #5 informed her expert, Gilbert Kliman, M.D. that she is a "very depressed person inside" and is always "on edge." She indicates that as a child while in school, girls wanted and/or attempted to put gum in her hair, cut her hair

Page 3

off, and threatened to slit her throat. In fact, in her own words, Jane Doe #5 admits that her depression is caused by a combination of "a lot together...a little bit had to do with Epstein." See Exhibit "B"

5. Prior to any contact with Epstein, Jane Doe #5, while in her young teens, admits to her expert, Dr. Kliman, that her mother told her that she (the mother) was molested by an uncle, raped twice, and caught her father (Jane Doe #5's grandfather) having sex with another man in the basement. She further told her daughter (Jane Doe #5) that her own sisters paid someone to rape her while in school. Jane Doe #5 also described an incident in which she walked in on her mother and step-father having sex and that she was "very upset" and "disgusted" by this event. See Exhibit "C"

6. Also, Jane Doe #5, in her interview with Dr. Kliman, describes her father as being a drug dealer who sold cocaine when she was a child. In fact, as a young child she was found playing with bags of cocaine. At the age of thirteen (13), while living with her father, she described him father as not being affectionate and calling her a "f-ing pig" and a "little slut." Further, Jane Doe #5 details an incident in which her step-father hit her in the head so hard it resulted in a ruptured eardrum and that she subsequently lied to authorities about the abuse. See Exhibit "D"

7. Jane Doe #5 admits to her expert, Dr. Kliman that she became sexually active at the age of twelve or thirteen, taking pain pills without a prescription, smoking marijuana, and being bulimic for a period of time. She also admits to having suicidal thoughts. See Exhibit "E" – all pre-Epstein. See Supra

8. 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

Page 4

upon Jane Doe #5 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 "F"**

9. Based upon the foregoing, it is clear that Jane Doe #5 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 "G" 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 renotice same for one of the four dates suggested; however, this Court must order same to occur.

10. 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.

11. 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.

Page 5

12. 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.

13. 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.

14. 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 Hall's 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.

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

**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.

Page 6

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 25<sup>th</sup> day of September, 2009

Respectfully submitted,

By:

ROBERT D. CRITTON, JR., ESQ.

Florida Bar No. 224162

rcrit@bclclaw.com

MICHAEL J. PIKE, ESQ.

Florida Bar #617296

mpike@bclclaw.com

BURMAN, CRITTON, LUTTIER & COLEMAN

515 N. Flagler Drive, Suite 400

West Palm Beach, FL 33401

561/842-2820 Phone

561/515-3148 Fax

*(Counsel for Defendant Jeffrey Epstein)*

**Certificate of Service**  
**Jane Doe No. 2 v. Jeffrey Epstein**  
**Case No. 08-CV-80119-MARRA/JOHNSON**

Stuart S. Mermelstein, Esq.  
Adam D. Horowitz, Esq.  
Mermelstein & Horowitz, P.A.  
18205 Biscayne Boulevard  
Suite 2218  
Miami, FL 33160  
305-931-2200  
Fax: 305-931-0877  
[ssm@sexabuseattorney.com](mailto:ssm@sexabuseattorney.com)  
[ahorowitz@sexabuseattorney.com](mailto:ahorowitz@sexabuseattorney.com)  
*Counsel for Plaintiffs*  
*In related Cases Nos. 08-80069, 08-80119, 08-80232, 08-80380, 08-80381, 08-80993, 08-80994*

Richard Horace Willits, Esq.  
Richard H. Willits, P.A.  
2290 10<sup>th</sup> Avenue North  
Suite 404  
Lake Worth, FL 33461  
561-582-7600  
Fax: 561-588-8819  
*Counsel for Plaintiff in Related Case No. 08-80811*  
[reelrhw@hotmail.com](mailto:reelrhw@hotmail.com)

Jack Scarola, Esq.  
Jack P. Hill, Esq.  
Searcy Denney Scarola Barnhart & Shipley, P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409  
561-686-6300  
Fax: 561-383-9424  
[jsx@searcylaw.com](mailto:jsx@searcylaw.com)  
[jph@searcylaw.com](mailto:jph@searcylaw.com)  
*Counsel for Plaintiff, C.M.A.*

Brad Edwards, Esq.  
Rothstein Rosenfeldt Adler  
401 East Las Olas Boulevard  
Suite 1650  
Fort Lauderdale, FL 33301  
Phone: 954-522-3456  
Fax: 954-527-8663  
[bedwards@rra-law.com](mailto:bedwards@rra-law.com)  
*Counsel for Plaintiff in Related Case No. 08-80893*

Paul G. Cassell, Esq.  
*Pro Hac Vice*  
332 South 1400 E, Room 101  
Salt Lake City, UT 84112  
801-585-5202  
801-585-6833 Fax  
[cassellp@law.utah.edu](mailto:cassellp@law.utah.edu)  
*Co-counsel for Plaintiff Jane Doe*

Isidro M. Garcia, Esq.  
Garcia Law Firm, P.A.  
224 Datura Street, Suite 900  
West Palm Beach, FL 33401  
561-832-7732  
561-832-7137 F  
[isidrogarcia@bellsouth.net](mailto:isidrogarcia@bellsouth.net)  
*Counsel for Plaintiff in Related Case No. 08-80469*

Robert C. Josefsberg, Esq.  
Katherine W. Ezell, Esq.  
Podhurst Orseck, P.A.  
25 West Flagler Street, Suite 800  
Miami, FL 33130  
305 358-2800  
Fax: 305 358-2382  
[rjosefsberg@podhurst.com](mailto:rjosefsberg@podhurst.com)  
[kezell@podhurst.com](mailto:kezell@podhurst.com)

Page 8

Bruce Reinhart, Esq.  
Bruce E. Reinhart, P.A.  
250 S. Australian Avenue  
Suite 1400  
West Palm Beach, FL 33401  
561-202-6360  
Fax: 561-828-0983  
[ecf@brucereinhartlaw.com](mailto:ecf@brucereinhartlaw.com)  
*Counsel for Defendant Sarah Kellen*

*Counsel for Plaintiffs in Related Cases*  
Nos. 09-80591 and 09-80656

Jack Alan Goldberger, Esq.  
Atterbury Goldberger & Weiss, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, FL 33401-5012  
561-659-8300  
Fax: 561-835-8691  
[jagesq@bellsouth.net](mailto:jagesq@bellsouth.net)  
*Counsel for Defendant Jeffrey Epstein*

cc. Dr. Ryan Hall