

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, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092**

ORDER

THIS CAUSE is before the Court on Defendant Epstein's Emergency Motion For Independent Medical Examination of Plaintiff (D.E. # 228). For the following reasons said Motion is granted.

In this case, which has been consolidated for purposes of discovery, Plaintiffs are former under-age girls who allege they were sexually assaulted by Defendant, Jeffrey Epstein ("Epstein"), at his Palm Beach mansion home. The scheme is alleged to have taken place over the course of several years in or around 2004-2005, when the girls in question were approximately 16 years of age. As part of this scheme, Epstein, with the help of his assistant Sarah Kellen, allegedly lured economically disadvantaged minor girls to his homes in Palm beach, New York and St. Thomas, with the promise of money in

exchange for a massage. Epstein purportedly transformed the massage into a sexual assault. The three-count Complaint alleges sexual assault and battery (Count I), intentional infliction of emotional distress (Count II), and, coercion and enticement to sexual activity in violation of 18 U.S.C. §2422 (Count III).

By the instant Motion Epstein seeks an order compelling Carolyn Margaret Andriano, one of the Plaintiffs, in the case, to submit to an independent psychological/psychiatric medical examination by Ryan Hall, M.D., presently scheduled for September 8, 2009. Andriano has agreed to submit to said exam, but requests the Court impose certain restrictions. Since the filing of the Motion the parties have managed to resolve some of the issues involved, such as the proposed examination's time and date and Andriano's request to have a representative from her team present at said examination. As for the latter issue, Defendant has agreed to provide, at his expense, a video feed and monitor in an adjacent room for Plaintiff's representative's use. The remaining issues involve Plaintiff's request for a court order limiting the scope of the proposed examination by disallowing repeated questioning regarding "highly sensitive areas of inquiry including Plaintiff's medical history, psychiatric history, sexual history, social history, sexual abuse history, substance abuse history, etc.,¹and imposing certain time restraints on the examination itself.

Plaintiff's request to limit the scope of the examination is denied. It is Dr.

¹ See Pltff's Resp. to Rep.(D.E. #279), p.3.

Hall's routine procedure when conducting psychological/psychiatric medical examinations of patients to require the patient to fill out a 10-page "Life History Questionnaire" and a 14-page "Patient Questionnaire." Both questionnaires request detailed background information regarding past medical history, psychiatric history, social history, work history, and the like. Presumably Plaintiff will be asked these same questions two more times, first by defense counsel at Andriano's deposition scheduled to take place shortly, and again by Dr. Hall at the upcoming examination. Plaintiff's objection is that by having to answer these same questions about the same subject matter three separate times "would only serve to embarrass, humiliate, intimidate and further victimize Plaintiff." Pltff's Resp. (D.E. #254), p.6. Plaintiff's position is that she should only "be required to regarding past medical history, psychiatric history, social history, work history, and the like, if at all, only one time," either during the "deposition of Plaintiff or through Dr. Hall's examination, but certainly not both." Id.

Plaintiff cites no case law and independent research has uncovered none, to support her novel position that a Plaintiff who puts her mental, emotional and psychiatric state at issue can place a limitation on the number of times defense counsel or agents retained by him can inquire into areas relevant to these issues where the subject matter involved is "highly personal," "embarrassing," "sensitive," or otherwise "humiliating." Plaintiff is seeking millions of dollars in personal injury damages for, among other things, "physical injury, pain and suffering, emotional

distress, psychological trauma, mental anguish, humiliation, embarrassment, loss of self-esteem, loss of dignity, [and] invasion of her privacy.”² Based on the allegations made in Defendant’s Reply,³ Plaintiff’s childhood was, to put it mildly, a difficult one, with numerous episodes of child abuse and sexual abuse, which in turn may of been the cause of Plaintiff’s later engaging in numerous instances of substance abuse, self-mutilation, prostitution, aggravated assault, truancy, and the like. According to Defendant, in 2005 Plaintiff’s mother filed a case committing Andriano for a Petition for Involuntary Assessment for substance abuse, stating in the accompanying file that Andriano has been diagnosed as “Bipolar and Schizophrenic.”⁴

Under these circumstances, where Plaintiff is seeking to recover medical expenses associated with these complex medical issues, full knowledge of Plaintiff’s past and present medical, psychological, familial and social histories is essential. And while neither duplication nor embarrassment is desired, under the circumstances presented, where the number and scope of damages claimed are vast and Plaintiff’s past history eventful, it may nonetheless be unavoidable. This is not to say that restrictions on the scope of questioning may never be put into effect. If, as the case progresses, Plaintiff can show that Defendant’s invasive questioning

² Plaintiff, Andriano’s First Am. Compl., Counts I-XXX.

³ (D.E. #273), pp.7-8,

⁴ As quoted in Def’s Rep. (D.E. #273), p.8, from Palm Beach County Case #05MH1667.

is being done in bad faith or for purposes of harassment, the Court may reconsider imposing limitations of the sort requested herein. At this point, however, the Court agrees with Defendant that to restrict the number of times defense counsel may ask Plaintiff personal and sensitive questions concerning some of the pivotal issues in this case, would work an injustice by preventing Defendant from being able to defend himself.

The Court likewise rejects Plaintiff's request to limit the time for conducting the examination and any related testing to 6 hours. Dr. Hall has filed an affidavit stating that he needs 6-8 hours to conduct the examination and related testing, and that anything less than that might result in compromising the test results.⁵ Considering the 31 counts alleged against Defendant, as well as Plaintiff's event-filled past, the amount of time sought does not appear unreasonable. Should the length of time prove draining, Plaintiff may take breaks as needed, of reasonable duration. Furthermore, Defense Counsel and Dr. Hall are hereby put on notice that while the Court has allowed the full 8 hours requested for the examination and related testing, should less time be needed, the Court expects less time will be taken, and in no event may the examination and related testing exceed a total of 8 hours. In accordance with the above and foregoing, it is hereby

ORDERED AND ADJUDGED that Defendant Epstein's Emergency Motion For Independent Medical Examination of Plaintiff (D.E. # 228) is **GRANTED IN**

⁵ Affidavit of Dr. Hall, attached as Ex. "B" to Defendant's Rep. (D.E. #273).

CC: The Honorable Kenneth A. Marra
All Counsel of Record

UNITED STATES MAGISTRATE JUDGE
LINDA R. JOHNSON


Florida.

DONE AND ORDERED this September 4, 2009, in Chambers, at West Palm Beach,

ACCORDANCE WITH THE TERMS HEREOF.