

**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.

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

JANE DOE NO. 4,

Plaintiff,

vs.

JEFFREY EPSTEIN

Defendant.

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

JANE DOE NO. 5,

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

CASE NO.: 08-80994-CIV-MARRA/JOHNSON

JANE DOE NO. 6,

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

CASE NO.: 08-80993-CIV-MARRA/JOHNSON

JANE DOE NO. 7,

Plaintiff,

JEFFREY EPSTEIN

Defendant.

C.M.A.,

Plaintiff,

JEFFREY EPSTEIN

Defendant.

CASE NO.: 08-80811-CIV-MARRA/JOHNSON

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JANE DOE,	CASE NO.: 08-80893-CIV-MARRA/JOHNSON
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Plaintiff,

JEFFREY EPSTEIN et al,

Defendants.

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DOE II,	CASE NO.: 09-80469-CIV-MARRA-JOHNSON
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Plaintiff,

JEFFREY EPSTEIN et al,

Defendants.

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JANE DOE NO. 101,	CASE NO.: 09-80591-CIV-MARRA-JOHNSON
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Plaintiff,

JEFFREY EPSTEIN

Defendant.

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JANE DOE NO. 102,	CASE NO.: 09-80656-CIV-MARRA/JOHNSON
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Plaintiff,

JEFFREY EPSTEIN,

Defendant.

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**DEFENDANT, JEFFREY E. EPSTEIN'S EMERGENCY MOTION FOR
INDEPENDENT MEDICAL EXAMINATION OF PLAINTIFF
WITH INCORPORATED MEMORANDUM OF LAW**

Defendant, JEFFREY E. EPSTEIN, (hereinafter "Epstein") by and through his attorneys, and pursuant to Rule 35, Fed. R. Civ. P. and 7.1(E) of the Local Rules for the Southern District of Florida, hereby moves this Court for an emergency order directing that the Plaintiff, CAROLYN MARGARET ANDRIANO, submit to a compulsory psychological/psychiatric medical examination (a/k/a independent medical examination) by Ryan Hall, M.D. of Richard Hall, M.D., P.A. at 9:00 a.m. on August 20, 2009 at the law firm of Burman, Critton, Luttier and Coleman, LLP. located at 515 N. Flagler Drive, Ste. 400, WPB, Fl. 33401. In support, Epstein states:

Background

1. While this matter was filed on February 23, 2008 and thereafter removed to federal court on July 21, 2008, Plaintiff continues to prevent Epstein from conducting meaningful discovery. In particular, Plaintiff now objects to her compulsory psychological/psychiatric examination from taking place despite her damage allegations in the operative Complaint. This will be discussed in further detail below after a brief overview of Plaintiff's continued delay tactics.

2. Up until May 20, 2009, Plaintiff refused to allow Defendant to identify her by name in various third-party subpoenas which Defendant intended to serve directed to Plaintiff's health care providers, past and current, which involves basic personal injury discovery – obviously in anticipation of a future compulsory psychological/psychiatric examination. If Defendant could not use CMA's name, how could the provider have

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provided records from solely a "CMA" designation? Defendant did not want to violate the court's order on anonymity. Thus, Defendant served its April 29, 2009 Motion to Identify (DE 67) and Reply (DE 181) requesting the right to serve third-party subpoenas and/or dismissed Plaintiff's case. Plaintiff then offered to allow Defendant access to her medical history only after her attorneys were able to obtain and filter through same. Was Plaintiff serious? On May 20, 2009, C.M.A. then capitulated and filed her Notice of Withdrawal of Previously Raised Objections to Epstein's Motion to Compel and/or Identify C.M.A. in the Style of this Case and Motion to Identify C.M.A. in Third-Party Subpoenas for Purposes of Discovery, or Alternatively, Motion to Dismiss Sua Sponte (DE 23)(the "Notice of Withdrawal"). Obviously, by filing the Notice of Withdrawal, Plaintiff recognized that her attempts to prevent meaningful discovery were delaying this matter and would ultimately delay her trial.

3. Defendant then expeditiously set about to obtain basic background discovery on C.M.A. for use for her deposition and for an eventual medical/psychological exam which, as discussed in more detail below, is now being prevented by Plaintiff. Then, on June 5, 2009, C.M.A. filed a Motion for Protective Order Regarding Treatment Records From Parent-Child Center, Inc. (Susan Pope) and Dr. Serge Thys (DE 114, now DE 207). On June 17, 2009, Plaintiff then filed a subsequent Motion for Protective Order Regarding Treatment Records From Palm Beach County School District, Good Samaritan Hospital, St. Mary's Hospital Dr. Gloria C. Hakkarinen, and Florida Atlantic University (DE 121, now DE 207). While Plaintiff agreed to allow Defendant to identify her in various third-party subpoenas directed to

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her physicians, she now employs yet another strategy to block discovery of her past medical and psychological history from being discovered by and through the Conditional Notice (DE 113) and the Motions for Protective Order. Without the health care provider information, including psychological/ psychiatric records, it will be impossible to conduct a thorough deposition of C.M.A. and have a meaningful independent medical/psychological examination by Epstein's defense expert, Dr. Hall. C.M.A. knows full well that such discovery is relevant to the claims she asserts against Epstein.

4. On July 23, 2009, the undersigned sent Plaintiff's counsel a letter requesting that Plaintiff provide Defendant with dates of availability for the depositions for Susan Pope of the Parent-Child Center, Inc. and Dr. Serge Thys within 10 days so that the appropriate information could be obtained for this case and for the future compulsory psychological/psychiatric examination of C.M.A.. See **Exhibit "A"**. On that same date, Epstein requested that Plaintiff provide him a date for the independent medical/psychological examination of C.M.A. On July 29, 2009, the undersigned discussed the foregoing issues with counsel for Plaintiff, and plaintiff's attorney advised that he objected to the depositions of Susan Pope and Dr. Serge Thys and would be filing a motion for protective order as to the independent medical/psychological examination of C.M.A. The conclusion is simple - as a result of the pending Motions before this court as well as the delay tactics taken by Plaintiff, Epstein is being forced to trial without one shred of meaningful discovery. Importantly, Plaintiff opposed Defendant's motion to strike the current trial date, and this court in denying Defendant's motion instructed Defendant to move forward with discovery. Yet, Plaintiff's own

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strategy and the pending motions before this court continues to prevent the very discovery this court said Defendant should undertake! Discovery cutoff is only (1) one month away (i.e., at the end of August 2009).

5. This court has already ruled that Plaintiff can only be deposed once (Case #80119, DE 98 at ¶5 – “Defendant is limited to a single deposition of each Plaintiff, during which defendant may depose the Plaintiff as both a party and a witness.”). However, Epstein is being compelled to take C.M.A.’s deposition without C.M.A.’s medical records/history. As such, the undersigned will not be able to cross-examine C.M.A. about her past medical history and, as a result, Epstein’s expert physician will not have the benefit of that type of questioning and answers thereto before the compulsory psychological/psychiatric examination of C.M.A.. This is inherently unfair, nonsensical and directly violates Epstein’s due process rights.

6. Plaintiff has alleged in her action that the Defendant sexually assaulted the Plaintiff. As a result of the alleged conduct, she claims she suffered the following damages set forth in paragraph 25 (and the same damages in 30 additional counts).

“As a direct and proximate result of the offenses enumerated in Title 18, United States Code, Section 2255, being committed against the then minor Plaintiff, C.M.A., has in the past suffered, and will in the future suffer, physical injury, pain and suffering, emotional distress, psychological trauma, mental anguish, humiliation, embarrassment, loss of self-esteem, loss of dignity, invasion of her privacy and other damages associated with Defendant, JEFFREY EPSTEIN, controlling, manipulating and coercing her into a perverse and unconventional way of life for a minor. The then minor Plaintiff incurred medical and psychological expenses and the Plaintiff, C.M.A., will in the future suffer additional medical and psychological expenses. The Plaintiff, C.M.A., has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life.

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These injuries are permanent in nature and the Plaintiff, C.M.A., will continue to suffer these losses in the future.”

7. Additionally, in her answers to interrogatories, in response to interrogatory 10, she claims the following damages as a result of the incident set forth in her complaint:

“I am claiming compensation for mental anguish, mental pain, psychic trauma, and loss of enjoyment of life. These damages will be evaluated by a jury who will provide their own methods of computation in an amount of at least the statutory minimum established by 18 U.S.C.A § 2255.” See **Exhibit “B”**.

8. 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. Additionally, the Plaintiff has been unable in the answers to interrogatories to identify any past or future medical care which she has sustained or may sustain. Yet, she has claimed the aforementioned damages.

9. 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.

10. 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 Halls’ specialties include forensic psychiatry, general psychiatry and medical psychiatry. Attached as **Exhibit “C”** hereto is 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

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also **Exhibit "D"**, Affidavit of Ryan C.W. Hall, M.D., inclusive of the scope of examination and other Rule 35 requirements. Accordingly, this motion comports with Rule 35. The applicable notice will be filed simultaneously herewith.

11. Defendant will arrange for a videotape of the examination.

WHEREFORE, Defendant requests that this Court enter an Order directing that the examination takes place at 9:00 a.m. on August 20, 2009 at the law firm of Burman, Critton, Luttier and Coleman, LLP. located at 515 N. Flagler Drive, 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.

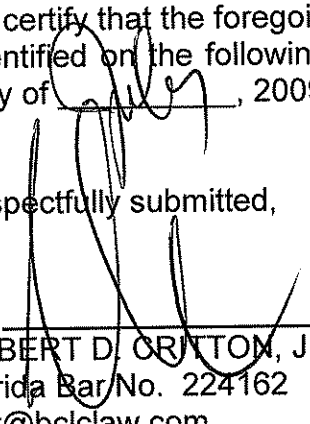
Rule 7.1 Certification

I hereby certify that counsel for the respective parties communicated by telephone in a good faith effort to resolve the discovery issues prior to the filing of this motion. Counsel was unable to resolve the issues outlined herein.

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 19 day of July, 2009

Respectfully submitted,

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Certificate of Service
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Case No. 08-CV-80119-MARRA/JOHNSON

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