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November 5, 2019

ECF

Hon. Katherine Polk Failla
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: ***Jane Doe v. Darren K. Indyke and Richard D. Kahn, in their capacities as the Executors of the Estate of Jeffrey E. Epstein*****, 1:19-cv-08673-KPF**

Dear Judge Failla:

We represent Darren K. Indyke and Richard D. Kahn, Co-Executors of the Estate of Jeffrey E. Epstein (together, "Defendants"), in the referenced action. In accordance with Your Honor's Individual Rules of Practice in Civil Cases § 2(c) (providing 3 business days for parties to respond to letter motions), we write in response to Plaintiff's counsel's October 31, 2019 letter motion (ECF # 14) which they submitted without first meeting and conferring with us as we requested. Plaintiff's counsel: (i) requests an unnecessary court conference to discuss "risks of spoliation" based on a U.K. tabloid article that we already advised Plaintiff's counsel is, to the extent it suggests spoliation has occurred, false; and (ii) misstates Defendants' position on Plaintiff's Motion to Proceed Under Pseudonym (ECF# 3) and even though Plaintiff agreed, and the Court So Ordered, Defendants have until November 15, 2019 to respond to the Motion (*See* ECF# 10).

On October 22, 2019, Plaintiff's counsel, Roberta Kaplan, citing a U.K. tabloid article implying one of the Co-Executors improperly removed materials in a bag from the decedent's property in Manhattan, asked us to confirm the tabloid's accuracy. An attorney for the Co-Executor promptly called Ms. Kaplan and explained to her that the tabloid article, to the extent it suggested spoliation, was wrong. The Co-Executor's attorney also specifically explained to Ms. Kaplan that the subject bag did not contain documents or any other materials relevant to this case. In fact, the Co-Executor referenced in the tabloid article was carrying a bag of decedent's clothing for purposes of laying decedent to rest.

We have also advised Ms. Kaplan on multiple occasions, including in writing, that the Co-Executors are abiding by their discovery obligations. However, after we addressed the tabloid article and further confirmed Defendants' adherence to their discovery obligations, Ms. Kaplan

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then demanded we confirm Defendants are preserving various categories of documents that Ms. Kaplan labeled "topics." Many of the so-called topics are argumentative, assume facts that have not been proven and implicate information protected by the attorney-client privilege and attorney work product doctrine. Ms. Kaplan failed to cite to us or the Court any legal authority supporting her demands, and we are not aware of any such authority.

Despite being at an arbitration hearing in Southfield, Michigan (which Ms. Kaplan was aware of) and despite Ms. Kaplan's failure to cite any legal bases for her premature demands, we asked Ms. Kaplan to meet and confer with us by phone if she still insisted on seeking Court intervention regarding these issues, so we could better understand the basis of her position. Instead, Plaintiff's counsel submitted their Letter Motion to the Court last Thursday.

Given Defendants' confirmation that they are abiding by their preservation obligations, and in light of Ms. Kaplan's failure to provide any support (beyond an erroneous tabloid article) for her speculative allegations of spoliation, we respectfully submit it is premature to address any discovery issues at this very early stage of this case—Defendants have until November 15, 2019 to respond to Plaintiff's Complaint and the Initial pre-trial conference is scheduled for December 13, 2019.

Finally, Ms. Kaplan incorrectly asserts that Defendants object to Plaintiff's Motion to Proceed Under Pseudonym. To the contrary, and as we will further explain in Defendants' response brief due per the Court's Order on November 15, 2019, Defendants have no objection to Plaintiff's desire to prevent the public from discovering her identity. We never suggested otherwise to Ms. Kaplan. Defendants do intend to brief their position on anonymity so they are not, subject to measures preventing such public disclosure, deprived of a fair opportunity to defend against Plaintiff's claims.

Respectfully submitted,

s/Bennet J. Moskowitz
Bennet J. Moskowitz