

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

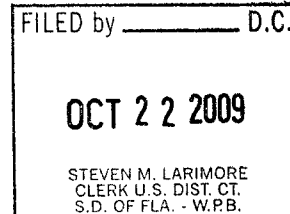
v.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80581, 09-80656, 09-80802, 09-81092.



**DEFENDANT EPSTEIN'S EMERGENCY RESPONSE IN OPPOSITION
TO PLAINTIFFS', JANE DOE 2-8, SECOND MOTION FOR
PROTECTIVE ORDER, WITH INCORPORATED MEMORANDUM OF
LAW**

Defendant, Jeffrey Epstein, by and through his undersigned counsel, and pursuant to all applicable rules, including Local Rule 7.1(e), hereby files and serves his Response In Opposition To Plaintiffs' Second Motion For Protective Order (DE 364), With Incorporated Memorandum Of Law. In support, Epstein states:

Introduction and Background

1. As this Court is well aware, Plaintiffs continue to prevent discovery. As such, several Motions, Responses and Replies have been unnecessarily litigated, and these cases have been unnecessarily delayed by Plaintiffs.

2. One of the Plaintiffs has taken various positions only to abandon those positions after extensive briefing, thereby resulting in substantial delay. Other Plaintiffs have taken the

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position that Independent Medical Exams must be limited in scope, which is contrary to what this court has already ruled. DE 289.

3. In this particular case, Jane Doe 4 requests that this Court enter an order preventing Epstein from being in attendance at her deposition set for October 27, 2009.¹ Without jeopardizing the substance of certain Motions, Responses and Replies currently pending before this Court on the same subject matter, Jeffrey Epstein will agree to the following in an effort to move this particular case forward:

- a. That Epstein will not be in attendance at the deposition.
- b. That Epstein will view the deposition from a video-feed in a separate room on the 14th floor of the building located at 250 Australian Ave., South, Suite 115, West Palm Beach, Florida. Plaintiff will be responsible for the associated costs of the video-feed (as another Plaintiff agreed to do without incident)
- c. That Epstein will arrive at the building 1 hour before the deposition is set to begin at 11:00 a.m. on the above date.
- d. That Jane Doe 4's attorney will contact Epstein attorney by cellular telephone upon their arrival and, at that time, Epstein will be in the room where the video-feed monitor is located.
- e. That once the deposition is over, Epstein will remain located in the room where the video-feed monitor is located until such time as Jane Doe 4 and her attorney have exited the building, which her attorney will confirm by cellular telephone with the undersigned.

4. Plaintiffs' counsel offers an absurd sanction (i.e., if Jeffrey Epstein ever comes within sight of Jane Doe 4, Epstein waives the right to take her deposition in this lawsuit where

¹ Plaintiff, CMA, recently withdrew her Motion for Protective Order seeking to prevent Jeffrey Epstein from appearing at deposition.

Plaintiffs seek to recover millions of dollars.) Again, a proposal that was offered by Plaintiff only to prevent and/or delay discovery. The deposition is set to occur at the office of Prose Court Reporting located at 250 Australian Ave., South, Suite 115. Jeffrey Epstein's office is located on an entirely separate floor from Prose Court Reporting. The location is neutral and convenient. If Plaintiff wishes to absorb the costs of renting another room and paying for the video-feed costs, Jeffrey Epstein will not object to same. Epstein simply desires to move these cases forward and complete meaningful discovery.

5. In Mugrage v. Mugrage, 763 A.2d 347, 349-352 (N.J. 2000), the court reasoned that “[a]lthough [the wife was] in fear of [her husband], and [was] in good faith in asking that he be excluded, and even though she ha[d] been the victim of domestic violence in the past, as well as protected by an existing order, the court conclude[d] that Mr. Mugrage ha[d] respected the judicial process in the past and almost certainly [would] abide by the terms of any court order regulating his attendance at the deposition. He has not violated past court orders and the court conclude[d] that security concerns for her safety can be addressed in a carefully crafted protective order. Therefore, Ms. Mugrage [did] not establish[] sufficient “exceptional circumstances” to justify excluding Mr. Mugrage from her deposition in the matrimonial action.” Id. at 352 (even when it is not appropriate to exclude the other party from the protected party's deposition, a protective order can be crafted which would allow the other party to be present under the least restrictive conditions possible). In an effort to move this case forward, Epstein offers Jane Doe 4 an even more restrictive setting for her deposition than what Mugrage provides.²

² In addition, Epstein offers a more restrictive setting than what is permitted under the law. See e.g., Christian v. Rhode, 41 F.3d 461, 465-66 (C.A. Ariz. 1994). See also, Coy v. Iowa, 487 U.S. 1012, 1015, 108 S.Ct. 2798, 2800, 101 L.Ed.2d 857 (1988). The Clause “guarantees the defendant a face-to-face meeting with witnesses appearing before the trier of fact.” Id. at 1016, 108 S.Ct. at 2801. This physical confrontation “enhances the accuracy of fact

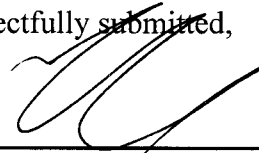
Wherefore, Epstein respectfully requests that this Court enter an order denying Plaintiffs' Second Motion for Protective Order, entering an order allowing for the above relief, and for such other and further relief as this court deems just and proper.

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 and **hand delivery**. 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 22nd day of October, 2009

Respectfully submitted,



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finding by reducing the risk that a witness will wrongfully implicate an innocent person.” Maryland v. Craig, 497 U.S. 836, 846, 110 S.Ct. 3157, 3164, 111 L.Ed.2d 666 (1990); see also Coy, 487 U.S. at 1019, 108 S.Ct. at 2802 (“A witness ‘may feel quite differently when he has to repeat his story looking at the man whom he will harm greatly by distorting or mistaking the facts.’”) (quoting Z. Chafee, *The Blessings of Liberty* 35 (1956)). The Confrontation Clause thus gives the defendant the right to be present and to confront witnesses giving testimony during a pretrial deposition, where the deposition is intended for use at trial. Don v. Nix, 886 F.2d 203 (8th Cir.1989); United States v. Benfield, 593 F.2d 815 (8th Cir.1979). Moreover, 1 McCormick on Evid., §19 (6th ed.) states, in pertinent part, that: “[f]or two centuries, common law judges and lawyers have regarded the opportunity of cross-examination as an essential safeguard of the accuracy and completeness of testimony. They have insisted that the opportunity is a right, not a mere privilege. This right is available at the taking of depositions as well as during the examination of witnesses at trial.” See Anderson v. Snyder, 91 Conn. 404, 408, 99 A. 1032 (1917); Helffferich v. Farley, 36 Conn.Sup. 333, 334, 419 A.2d 913 (1980).

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

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PROPOSED ORDER

This matter came before the Court on Defendant's, JEFFREY EPSTEIN, Emergency Response in Opposition to Plaintiffs, Jane Doe 2-8', Second Motion for Protection Order, with Incorporated Memorandum of Law. Having considered Defendant's motion, it is HEREBY ORDERED and ADJUDGED that:

- a. The deposition shall go forward on October 27, 2009.
- b. Epstein will not be in attendance at the deposition.
- c. Epstein will view the deposition from a video-feed in a separate room on the 14th floor of the building located at 250 Australian Ave., South, Suite 115, West Palm Beach, Florida. Plaintiff will be responsible for the associated costs of the video-feed (as another Plaintiff agreed to do without incident)
- d. Epstein will arrive at the building 1 hour before the deposition is set to begin at 11:00 a.m. on the above date.

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e. Jane Doe 4's attorney will contact Epstein attorney by cellular telephone upon their arrival and, at that time, Epstein will be in the room where the video-feed monitor is located.

f. Once the deposition is over, Epstein will remain located in the room where the video-feed monitor is located until such time as Jane Doe 4 and her attorney have exited the building, which her attorney will confirm by cellular telephone with the undersigned.

DONE and ORDERED this ____ day of _____, 2009.

United States Magistrate Judge

Courtesy Copies: Counsel of Record