

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.

JANE DOE NO. 4,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 5,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 6,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

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

JANE DOE NO. 7,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

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

C.M.A.,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

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

JANE DOE,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

CASE NO.: 08-CV-80893-MARRA/JOHNSON

DOE II,

CASE NO.: 09-CV-80469-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

JANE DOE NO. 101,

CASE NO.: 09-CV-80591-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

JANE DOE NO. 102,

CASE NO.: 09-CV-80656-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____ /

**PLAINTIFF, C.M.A.'S, RESPONSE AND INCORPORATED MOTION FOR
PROTECTIVE ORDER REGARDING DEFENDANT, JEFFREY E. EPSTEIN'S
EMERGENCY MOTION FOR INDEPENDENT EXAMINATION OF PLAINTIFF WITH
INCORPORATED MEMORANDUM OF LAW (DE 228)**

Plaintiff, C.M.A., by and through her undersigned attorneys, hereby files her Response and Incorporated Motion For Protective Order Regarding Defendant, JEFFREY E. EPSTEIN's, Emergency Motion For Independent Examination of Plaintiff With Incorporated Memorandum of Law (DE 228), and in support there of states as follows:

1. Defendant, JEFFERY E. EPSTEIN, filed on July 29, 2009 his Emergency Motion for Independent Examination of Plaintiff with Incorporated Memorandum of Law (DE 228).

2. After several pages of leveling inaccurate and irrelevant arguments regarding Plaintiff's alleged strategy to stall discovery in this case, the Defendant's requested relief finally materializes late in his "emergency"¹ motion in that he seeks to have Plaintiff submit to a 6-8 hour compulsory examination with his retained psychiatrist, Ryan Hall, M.D.

3. Defendant has unilaterally selected August 20, 2009 for this examination.

4. Plaintiff has been hospitalized for the last two weeks suffering from serious illnesses, including undergoing extensive thoracic surgery. It is not expected that Plaintiff will be released from the hospital before August 24, 2009, and potentially later. There is also the possibility that Plaintiff will need to be admitted to an in-patient nursing home/rehabilitation hospital following her discharge from the acute care setting in which she is currently residing to convalesce from her illnesses and resulting surgery.

5. Needless to say, it is not expected that Plaintiff will be out of the hospital by August 20, let alone be in any condition that would permit the type of examination requested by Defendant. Accordingly, Plaintiff seeks the entry of a protective order preventing the examination with Dr. Hall from going forward until after Plaintiff is discharged from the hospital and/or any nursing home/rehabilitation hospital. The

¹ Although styled as an "emergency" motion, there is no indication whatsoever as to how or why Defendant's request for an examination of Plaintiff is an emergency.

undersigned will keep counsel for EPSTEIN informed as to Plaintiff's expected discharge date in order to facilitate rescheduling the examination.

6. Ominously, Defendant seeks to first take the deposition of Plaintiff so that his examiner can have the benefit of Plaintiff's answers before the examination takes place. (DE 228, paragraph 5). Plaintiff, the victim of repeated sexual offenses at the hands of the Defendant over a prolonged period of time while she was a minor, would then again be subjected to a "full medical and psychiatric history, including chief complaint, history of present illness, specific complaints of symptoms or injury, medical history, past psychiatric history, family history, abuse history, birth history, childhood history, school history, occupational history, violence history, legal history, relationship history, substance abuse history, sexual history, review of symptoms, activities of daily living, mental status examination, diagnosis using DSM-IV axes" during Defendant's proposed examination by Dr. Hall. (DE 228, Exhibit "D", paragraph 10).

7. As if that were not overkill enough, it has also requested, apparently by Dr. Hall himself, that Plaintiff fill out certain questionnaires in advance of her proposed examination. (See letter from Michael Pike dated July 31, attached as Exhibit "1"). Dr. Hall is requesting that Plaintiff fill out a 10 page "Life History Questionnaire" (apparently for use with his patients as it references the confidential nature of the personal data requested therein) and a 14 page "Patient Questionnaire (for Forensic Examination)." Both questionnaires request information regarding past medical history, psychiatric history, social history, work history, etc.

8. Defendant cannot seriously be suggesting that he anticipates having Plaintiff answer the same questions about the same subject matter three separate times (first in a deposition, then in Dr. Hall's questionnaires, then in Dr. Hall's examination). Such a procedure would only serve to embarrass, humiliate, intimidate, and further victimize Plaintiff. Additionally, Defendant no doubt hopes to create inconsistent statements by the Plaintiff in having her answer the same questions multiple times. The desire to create inconsistent statements is, of course, not an appropriate goal for a mental examination.

9. When the Defendant's proposed examination goes forward at some time to be determined later, Plaintiff moves for the entry of a protective order limiting the time permitted for the examination and any testing to 6 hours. Trenary v. Busch Entertainment Corp., 2006 WL 3333621 (M.D. Fla.)(limiting a psychiatric evaluation to four (4) hours) and Tracey v. Sarasota County, 2006 WL 1678908 (M.D. Fla.)(limiting mental evaluation to (4) hours).

10. Plaintiff also requests the entry of an order limiting the scope of the examination. Plaintiff should be required to answer sensitive and highly personal questions, if at all, only one time. Defendant can choose to delve into Plaintiffs medical, psychiatric, sexual and sexual abuse history and the like either in his deposition of Plaintiff or through Dr. Hall's examination, but certainly not both. Accordingly, Plaintiff requests the entry of an order preventing duplicative questioning during same regarding personal and highly sensitive topics such as medical history, psychiatric history, sexual history, social history, sexual abuse history, substance abuse history, etc.

11. Lastly, Dr. Hall proposes that only he and Plaintiff be in the examination room. (DE 228, Exhibit "D", paragraph 9). Given the nature of Plaintiff's allegations and the proposed scope of the examination, Plaintiff is entitled to have in the room present with her a representative from the undersigned's office to ensure that Plaintiff's rights are appropriately safeguarded. The mere presence of a representative from the undersigned's office would in no way interfere with Dr. Hall's ability to conduct his examination.

WHEREFORE, Plaintiff, C.M.A., respectfully requests that this Court enter an order:

- 1) Prohibiting the proposed examination from going forward until after Plaintiff is discharged from the hospital and/or any nursing home/rehabilitation hospital;
- 2) Limiting the time for conducting the examination, including any testing, to a maximum of 6 hours;
- 3) Limiting the scope of same to preclude Plaintiff from being subjected to repeated questioning on multiple occasions regarding personal and highly sensitive areas of inquiry including Plaintiff's medical history, psychiatric history, sexual history, social history, sexual abuse history, substance abuse history, etc.; and
- 4) Authorizing the presence of a representative from the undersigned's office to with Plaintiff in the examination room.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

Counsel for the movant has conferred via e-mail with counsel for the Defendant regarding his position on the instant motion and has been informed that counsel for Defendant is not in agreement with any of the relief requested herein.

/s/ Jack P. Hill

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 7, 2009, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/Jack P. Hill

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