

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

Defendant, Jeffrey Epstein's Motion To Stay And Or Continue Action For Time Certain Based On Parallel Civil And Criminal Proceedings With Incorporated Memorandum Of Law

Defendant, JEFFREY EPSTEIN, (hereinafter "EPSTEIN") by and through his undersigned attorneys, hereby moves this Court for the entry of an order staying or continuing this action for a time certain (i.e., until late 2010 when the NPA expires), pursuant to the application of the Fifth Amendment of the U.S. Constitution and the fact that a parallel proceeding is ongoing and being investigated. In support of his motion, EPSTEIN states:

I. Introduction

At the outset, EPSTEIN notes this Court's prior Order, (DE 33), in which this Court denied a motion for stay brought by Defendant's prior counsel. In that instance, Defendant's counsel requested a mandatory stay under 18 U.S.C.A. §3509(k) which the court denied. In denying the request for the stay, this Court stated that a discretionary stay was not appropriate at the time the order was entered but also stated, in part, that "Any such issues shall be resolved as they arise in the course of litigation." As discussed herein, "special circumstances" now exist which, in the "interests of justice," merit the entry of a stay of this civil action until the criminal

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matter in the 15th Judicial Circuit is “closed” in accordance with the United States Attorney’s Office (“USAO”) Non-Prosecution Agreement (“NPA”) and until the NPA expires.

Moreover, EPSTEIN was indicted by a grand jury in or around July 2006. See Exhibit “A”. The Non-Prosecution Agreement is part of the record in connection with that indictment, which is signed by the State Attorney of the 15th Judicial Circuit in and for Palm Beach County, Florida (“SAO”). In fact, the NPA acknowledges the investigation performed by the SAO. Further, the USAO was present at the Plea hearing whereby the NPA was made part of the record. Thus, there is no question that a parallel criminal matter exists in that the SAO’s case remains open and the NPA lives along side it, which places EPSTEIN under great scrutiny by the USAO. The NPA actually places an affirmative duty upon EPSTEIN to undertake discussions with the SAO to ensure compliance with the NPA. That check and balance, therefore, remains in the hands of the SAO, which has a parallel criminal proceeding. Here, the threat of prosecution is real, substantial, and present should the USAO determine that EPSTEIN somehow violated the NPA. As discussed below, because the NPA fails to define what constitutes a breach, the USAO has apparently taken it upon itself to determine whether a breach has occurred and whether to seek criminal prosecution. In fact, the USAO has already attempted to claim violations of the NPA due to, among other things, EPSTEIN defending the civil actions against him. Clearly, it is NOT simply EPSTEIN’s choice as to whether he violates the NPA – that discretion apparently lies with the USAO. For this reason alone, a stay is required until the NPA expires.

The difference between this Motion and the prior motion to stay in is due to the ripeness of the issues discussed herein.

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II. THE NPA

By its terms, the NPA took effect on June 30, 2008 and expires by those same terms in late 2010 so long as EPSTEIN complies with the terms and conditions – violations of which remain undefined. The NPA, which remains under seal, outlines various obligations on the part of EPSTEIN including, but not limited to, pleading guilty to the Indictment and Information before the 15th Judicial Circuit, recommendations for his sentencing before the 15th Judicial Circuit, waiver of challenges to the Information filed by the SAO, waiver of right to appeal his conviction, agreement not be afforded benefits for gain time, and the agreement to not prosecute others listed thereon so long as EPSTEIN does not breach and fulfills the requirements of the NPA.

What the NPA does not outline or define is what constitutes a breach or what act or omission constitutes a breach thereof. Therefore, the USAO apparently believes it has the discretion to make that unwritten and undefined determination, which places an unreasonable burden upon EPSTEIN in defending the civil claims in that he has no idea what the USAO will define as a breach in the event he does not assert his 5th Amendment Rights. As an example, the USAO has already claimed that EPSTEIN violated the NPA by:

1. investigating the Plaintiffs (by and through his attorneys) whom brought civil suits against him for purposes of defending those civil actions;
2. contesting damages in this action and in the other civil actions;
3. making statements to the press about this Plaintiff or other Plaintiffs by and through his attorneys; and

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4. using the word "jail" instead of "imprisonment" in the plea agreement with SA's office.

See Exhibit "B" Goldberger Affidavit - EPSTEIN's criminal counsel.

These allegations are silly, unfounded and alleged violations which are not defined as violations under the NPA but arrived at by the USAO. Thus, EPSTEIN is left with "Morton's Fork" in his side - the undesirable choice of taking the 5th Amendment and having a judgment (summary or otherwise) entered against him in the civil action or the undesirable choice of subjecting himself to discovery in the civil action before the NPA expires and, thus, face the possibility of criminal prosecution by the USAO based upon some illusory breach deemed by the USAO by way of information obtained through civil discovery proceedings. This is inherently unfair, the danger is clear, and the playing field is not level in light of the NPA language or lack thereof.

As a result, the threat of criminal prosecution against EPSTEIN by the USAO continues presently and through late 2010.

III. Justice Requires The Entry of A Stay Because Defendant Is Being Forced To Choose Between Waiving His 5th Amendment Privilege Or Risk Losing This Civil Case And Forfeiting Other Constitutional Guarantees Of Due Process And Effective Assistance Of Counsel

Once the NPA expires, EPSTEIN fully intends to testify to all relevant and non-objectionable inquiries made to him in discovery be it a deposition, in interrogatories or in production requests. (Emphasis Added) However, the current circumstances are such that by testifying or responding to discovery, EPSTEIN will be required to waive his constitutional privileges, thereby subjecting himself to criminal prosecution and scrutiny by the USAO as a

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result of matters alleged in this civil action (and others before this Court and in the State of Florida 15th Judicial Circuit Court, Palm Beach County).

The special circumstances of this action are such that a stay or continuance for a time certain is NOT prejudicial and is required to be entered so that:

(1) EPSTEIN is not required to waive his Fifth Amendment right against self-incrimination under the United States Constitution resulting in severe prejudice to EPSTEIN in pending criminal matters; and

(2) EPSTEIN is not forced to choose between waiving his Fifth Amendment right against self-incrimination or losing the civil case.

Here, in asserting his Fifth Amendment Privilege, the Plaintiff is afforded an opportunity rarely given - that is, to put on only her evidence without any counterevidence from Defendant resulting in a judgment of liability against EPSTEIN. This is inherently unfair and precisely the special circumstances where “in the interests of justice” a stay is required. Ventura v. Brosky, 2006 WL 3392207 (S.D. Fla. 2006), citing, United States v. Lot 5, Fox Grove, 23 F.3d 359 (11th Cir. 1994). In Ventura, a stay was entered where a Defendant was confronted with issue of waiving his 5th Amendment Privilege or to loose a civil case by way of motion for summary judgment. Id. Here, EPSTEIN is not requesting a mandatory stay. EPSTEIN only asks that this court recognize that “special circumstances” exists in this matter and enter a stay in the “interests of justice” and only for a specified period of time (i.e., after the NPA expires). See also Securities and Exchange Commission, 755 F.Supp. 1018, 1019 (S.D. Fla. 1990)(Defendant was in precarious position while being subject to criminal investigation and reasoning that compelling Defendant to speak by ordering an accounting of alleged illicit funds would directly

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impinge his right against self-incrimination). The court found it appropriate to grant the request for stay. (Emphasis Added).

Citing to U.S. v. Lot 5, Fox Grove, *supra*, the Southern District Court, Florida, in Ventura v. Brosky, 2006 WL 3392207 (S.D. Fla. 2006), stated –

The Eleventh Circuit has also created a test for these circumstances, stating that where there exists a concurrent civil and criminal proceeding, **a court must stay a civil proceeding pending resolution of a related criminal prosecution when “special circumstances” so require in the “interests of justice.”**

(Bold emphasis added). See also United States v. Kordel, 397 U.S. 1, 12 & n. 27, 90 S.Ct. 763, 769-70 & n.27 (1970). The Ventura Court went on to state that “situations where a defendant in both criminal and civil proceedings must choose whether to waive his privilege against self-incrimination or to lose the civil case in summary or default judgment proceedings have met this test’s burden and warrant a stay.” *Id.* The Ventura court granted the stay. Here, the 15th Judicial Circuit action lives along with the NPA.

In making a decision to enter such a stay, the court may consider the following factors:

- (1) the interests of the Plaintiffs in proceeding expeditiously with litigation, or any aspect of it, and the potential prejudice of Plaintiff to the delay;
- (2) the burden which any particular aspect of the proceedings may impose on the defendant;
- (3) the convenience of the court in the management of its cases, and the efficient use of judicial resources;
- (4) the interests of persons not parties to the civil litigation; and
- (5) the interest of the public in the pending civil and criminal litigation.

See U.S. v. Pinnacle Quest International, 2008 WL 4274498 (N.D. Fla. 2008).

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First, in applying the above factors, the Plaintiff in the instant matter will not be prejudiced simply by claiming a delay in time. Second, the burden is far greater on EPSTEIN if he is forced to waive his 5th Amendment Privilege or remain silent and have a judgment entered against him or choose to testify and face criminal prosecution. Third, efficient use of judicial resources would be rendered upon a stay by way of preventing an appeal if such a stay is not entered. The Court has broad discretion to enter such a stay. Fourth, the interests of the individuals outlined in the NPA will be served because EPSTEIN's fulfillment of NPA alleged obligations is determinative upon whether the USAO prosecutes those individuals or whether the claims will be dropped upon the expiration of the NPA. Finally, the interest of the public in the pending civil and criminal cases will not be prejudiced as EPSTEIN is already serving his term whereby a plea was entered in the 15 Judicial Circuit action.

a. Application of the 5th Amendment

Next, the Fifth Amendment privilege against self-incrimination "permits a person not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings." Edwin v. Price, 778 F.2d 668, 669 (11th Cir. 1985), *citing* Lefkowitz v. Turley, 414 U.S. 70, 77, 94 S.Ct. 316, 322 (1973). See also Ohio v. Reiner, 532 U.S. 17, 21, 121 S.Ct. 1252 (2001)(The Fifth Amendment privilege is also available to those who claim innocence. One of the Fifth Amendment's "basic functions ... is to protect innocent men ... 'who otherwise might be ensnared by ambiguous circumstances.');" Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards

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determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); Kastigar v. U.S., 406 U.S. 441, 444-45, 92 S.Ct. 1653 (1972)(The Fifth Amendment privilege “can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory; and it protects against any disclosures which the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used. This Court has been zealous to safeguard the values which underlie the privilege.” (Emphasis added)).

The United States Supreme Court made it clear that the scope of the Fifth Amendment Privilege includes the circumstances as here “the act of producing documents in response to a subpoena (or production request) has a compelled testimonial aspect.” United States v. Hubbell, 530 U.S. 27, 36, 120 S.Ct. 2037, 2043 (2000); see also Fisher v. United States, 425 U.S. 391 (1976); McCormick on Evidence, Title 6, Chap. 13. *The Privilege Against Self-Incrimination*, §138 (6th Ed.). The privilege against self-incrimination may be asserted during discovery when a litigant has “reasonable grounds to believe that the response would furnish a link in the chain of evidence needed to prove a crime against a litigant.” A witness, including a civil defendant, is entitled to invoke the Fifth Amendment privilege whenever there is a realistic possibility that the answer to a question could be used in anyway to convict the witness of a crime or could aid in the development of other incriminating evidence that can be used at trial. Id; Pillsbury Company v. Conboy, 495 U.S. 248, 103 S.Ct. 608 (1983).

Certainly, if the USAO decides to prosecute EPSTEIN for an alleged violation of the NPA, it would undoubtedly be able to use information obtained during discovery against him or use that information to aid in the development of other evidence against him at a criminal trial.

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The USAO is already claiming violations of the NPA based upon EPSTEIN defending the civil actions and, at the same time, while EPSTEIN asserts the 5th Amendment. Imagine, because that is all we can do based on the lack of wording in the NPA, what violations the USAO will assert if EPSTEIN is forced to waive his 5th Amendment privilege to defend himself in this and the other civil actions.

The Fifth Amendment provides, in relevant part, that “No person ... shall be compelled in any Criminal Case to be a witness against himself.” Hoffman v. United States, 341 U.S. 479, 486, 71 S.Ct. 814 (1951), *citing* Feldman v. United States, 1944, 322 U.S. 487, 489, 64 S.Ct. 1082, 1083, 88 L.Ed. 1408.” The Fifth Amendment’s privilege against self-incrimination is “accorded liberal construction in favor of the right it was intended to secure.” “The immediate and potential evils of compulsory self-disclosure transcend any difficulties that the exercise of the privilege may impose on society in the detection and prosecution of a crime.” Id., at 490; and In re Keller Financial Svcs. of Fla., Inc., 259 B.R. 391, 399 (M.D. Fla. 2000). The privilege not only extends to answers that would in themselves support a conviction under a criminal statute but likewise embraces those which would furnish a link in the chain of evidence needed to prosecute the claimant for a crime. Id., *citing* Blau v. United States, 1950, 340 U.S. 159, 71 S.Ct. 223. The Fifth Amendment privilege against self-incrimination “permits a person not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.” Edwin v. Price, 778 F.2d at 669, *citing* Lefkowitz v. Turley, 414 U.S. 70, 77, 94 S.Ct. 316, 322 (1973). As EPSTEIN is here, “the claimant must be ‘confronted by substantial and ‘real,’ and not merely trifling or imaginary, hazards of incrimination.” See generally, United States v. Apfelbaum, 445

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U.S. 115, 128, 100 S.Ct. 948, 956, 63 L.Ed.2d 250 (1980)). See also, United States v. Neff, 615 F.2d 1235, 1239 (9th Cir.), cert. denied, 447 U.S. 925, 100 S.Ct. 3018, 65 L.Ed.2d 1117 (1980)(Information is protected by the privilege not only if it would support a criminal conviction, but even if “the responses would merely ‘provide a lead or clue’ to evidence having a tendency to incriminate.”). EPSTEIN falls under each of the above category of cases.

The United States Supreme Court has made clear that the scope of the Fifth Amendment Privilege also encompasses the circumstance where “the act of producing documents in response to a subpoena (or production request) has a compelled testimonial aspect.” United States v. Hubbell, 530 U.S. 27, 36, 120 S.Ct. 2037, 2043 (2000); see also Fisher v. United States, 425 U.S. 391 (1976). In explaining the application of the privilege, the Supreme Court stated:

We have held that “the act of production” itself may implicitly communicate “statements of fact.” By “producing documents in compliance with a subpoena, the witness would admit that the papers existed, were in his possession or control, and were authentic.” Moreover, as was true in this case, when the custodian of documents responds to a subpoena, he may be compelled to take the witness stand and answer questions designed to determine whether he has produced everything demanded by the subpoena. The answers to those questions, as well as the act of production itself, may certainly communicate information about the existence, custody, and authenticity of the documents. Whether the constitutional privilege protects the answers to such questions, or protects the act of production itself, is a question that is distinct from the question whether the unprotected contents of the documents themselves are incriminating.

“The issue presented in those cases was whether the act of producing subpoenaed documents, not itself the making of a statement, might nonetheless have some protected testimonial aspects. The Court concluded that the act of production could constitute protected testimonial communication because it might entail implicit statements of fact: by producing documents in compliance with a subpoena, the witness would admit that the papers existed, were in his possession or control, and were authentic. United States v. Doe, 465 U.S., at 613, and n. 11, 104 S.Ct. 1237; Fisher, 425 U.S., at 409-410, 96 S.Ct. 1569; id., at 428, 432, 96 S.Ct. 1569 (concurring opinions). See Braswell v. United States, [487 U.S.] at 104, 108 S.Ct. 2284; [id.] at 122, 108 S.Ct. 2284 (dissenting opinion). Thus, the Court made clear that the Fifth Amendment privilege against self-incrimination applies to acts

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that imply assertions of fact.“... An examination of the Court's application of these principles in other cases indicates the Court's recognition that, in order to be testimonial, an accused's communication must itself, explicitly or implicitly, relate a factual assertion or disclose information. Only then is a person compelled to be a 'witness' against himself.” Doe v. United States, 487 U.S., at 209-210, 108 S.Ct. 2341 (footnote omitted).

Finally, the phrase “in any criminal case” in the text of the Fifth Amendment might have been read to limit its coverage to compelled testimony that is used against the defendant in the trial itself. It has, however, long been settled that its protection encompasses compelled statements that lead to the discovery of incriminating evidence even though the statements themselves are not incriminating and are not introduced into evidence. Thus, a half century ago we held that a trial judge had erroneously rejected a defendant's claim of privilege on the ground that his answer to the pending question would not itself constitute evidence of the charged offense. As we explained:

“The privilege afforded not only extends to answers that would in themselves support a conviction under a federal criminal statute but likewise embraces those which would furnish a link in the chain of evidence needed to prosecute the claimant for a federal crime.” Hoffman v. United States, 341 U.S. 479, 486, 71 S.Ct. 814, 95 L.Ed. 1118 (1951).

Compelled testimony that communicates information that may “lead to incriminating evidence” is privileged even if the information itself is not inculpatory. Doe v. United States, 487 U.S. 201, 208, n. 6, 108 S.Ct. 2341, 101 L.Ed.2d 184 (1988). It's the Fifth Amendment's protection against the prosecutor's use of incriminating information derived directly or indirectly from the compelled testimony of the respondent that is of primary relevance in this case.

The privilege against self-incrimination may be asserted during discovery when a litigant has “reasonable grounds to believe that the response would furnish a link in the chain of evidence needed to prove a crime against a litigant.” A witness, including a civil defendant, is entitled to invoke the Fifth Amendment privilege whenever there is a realistic possibility that the answer to a question could be used in anyway to convict the witness of a crime or could aid in the development of other incriminating evidence that can be used at trial. Id; Pillsbury Company

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v. Conboy, 495 U.S. 248, 103 S.Ct. 608 (1983). See also, Hubbell, *supra*, as to what is encompassed by the phrase “in any criminal case” contained in the Fifth Amendment.

As noted, the Fifth Amendment privilege against self-incrimination is broad. Hoffman; In re Keller Financial Svcs., *supra*. To deny a witness the right to invoke the privilege, the judge must be perfectly clear, from a careful consideration of all the circumstances in the case, that the witness is mistaken, and that the answers cannot possibly have such tendency to incriminate. Id. at 488, 399. Recognizing the breadth and magnitude of this constitutional privilege, the United States Supreme Court in discussing how a court is to analyze the application of the privilege stated –

... It is for the court to say whether his silence is justified, Rogers v. United States, 1951, 340 U.S. 367, 71 S.Ct. 438, and to require him to answer if ‘it clearly appears to the court that he is mistaken.’ Temple v. Commonwealth, 1880, 75 Va. 892, 899. However, if the witness, upon interposing his claim, were required to prove the hazard in the sense in which a claim is usually required to be established in court, he would be compelled to surrender the very protection which the privilege is designed to guarantee. To sustain the privilege, it need only be evident from the implications of the question, in the setting in which it is asked, that a responsive answer to the question or an explanation of why it cannot be answered might be dangerous because injurious disclosure could result. The trial judge in appraising the claim ‘must be governed as much by his personal perception of the peculiarities of the case as by the facts actually in evidence.’

Hoffman, *supra* at 486-487.

Hoffman and its progeny establish that “in view of the liberal construction of the provision [protecting against self-incrimination], after a witness has asserted the privilege, he should be compelled to provide the requested information only if it “clearly appears” to the court that the witness was mistaken in his invocation of the privilege.” (Emphasis added). In re Keller Financial Svcs., *supra* at 399, *citing Hoffman*, at 486.

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In the instant case, the privilege applies as Defendant EPSTEIN “has reasonable cause to apprehend danger from a direct answer.” The risk of incrimination resulting from being subject to discovery or to testify in his own defense while the NPA exists is “substantial and real” and “not trifling or imaginary haphazards of communication.” See generally, In re Keller Financial Svcs., supra at 400. Based on the nature of Plaintiff’s claims, along with the ongoing scrutiny of the USAO in the criminal matters, EPSTEIN has “reasonable grounds to believe that his responses to the discovery would furnish a link in the chain of evidence needed to prove a crime against him. Finally, in order to preserve the privilege, the privilege must be asserted or one risks the loss or waiver of this liberty ensuring protection. See generally, U.S. v. White, 846 F.2d 678, 690 (11th Cir. 1988)(“First, it ignores the settled principle which requires a witness to assert his Fifth Amendment rights. A witness who testifies at any proceeding, instead of asserting his Fifth Amendment rights, loses the privilege. ... A civil deponent cannot choose to answer questions with the expectation of later asserting the Fifth Amendment.”).

Also applicable in upholding the assertion of the Fifth Amendment privilege is the guarantee of effective assistance of counsel by the Sixth Amendment of the U.S. Constitution. See Yarborough v. Gentry, 124 S.Ct. 1, 540 U.S. 1, 157 L.Ed.2d 1 (2003)(Sixth Amendment guarantees criminal defendants effective assistance of counsel.), on remand 381 F.3d 1219. The United States Constitutional guarantees are applicable to the states through the Fourteenth Amendment. Obviously, EPSTEIN’s assertion of his constitutional privileges and protections is on the advice of counsel. Again, EPSTEIN continues to face criminal prosecution by the USAO until the expiration of the NPA; under the constitutional guarantee of effective assistance of

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counsel, he is entitled to follow the recommended advice of his criminal defense attorney. See Goldberger Affidavit attached hereto.

EPSTEIN's invocation of his constitutional protections of the Fifth, Sixth and Fourteenth Amendments must be upheld for the reasons set forth herein; otherwise such constitutional protections would be rendered meaningless. Already and recently, Defendant EPSTEIN in his Response and Objections to discovery, attached hereto as **Exhibit "C"**, has been required to assert, on advice of counsel, his Fifth Amendment privilege against self-incrimination, along with his constitutional rights afforded under the Sixth and Fourteenth Amendments of the United States Constitution. Thus, EPSTEIN's entitlement to a stay is ripe for determination.

Based upon the foregoing, a stay is warranted in this action as the Defendant is being forced to choose between the assertion of his Fifth Amendment right or losing this case by judgment (summary or otherwise) or waiver of his 5th Amendment right and face potential criminal prosecution.

By: 
ROBERT D. CRITTON, JR., ESQ.

Certificate of Service

WE HEREBY CERTIFY that a true copy of the foregoing has been sent via U.S. Mail and facsimile to the following addressees this 25th day of March, 2009.

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Respectfully submitted,

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(Co-counsel for Defendant Jeffrey Epstein)

INDICTMENT

A TRUE BILL

06-9454CF
A12

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT OF THE STATE OF FLORIDA

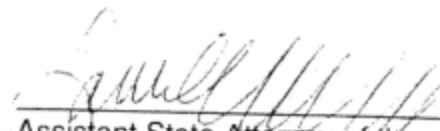
For Palm Beach County, at the Spring Term thereof, in the year of our Lord Two Thousand and Six, to-wit:
The Grand Jurors of the State of Florida, inquiring in and for the body of said County of Palm Beach, upon their
oaths do present that JEFFREY E. EPSTEIN in the County of Palm Beach aforesaid, in the Circuit and State
aforesaid,

COUNT ONE
FELONY SOLICITATION OF PROSTITUTION

on or about or between the 1st day of August in the year of our Lord Two Thousand and Four and October 31,
2005, did solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation, contrary to
Florida Statute 796.07(1) on three or more occasions between August 01, 2004 and October 31, 2005,
contrary to Florida Statute 796.07(2)(f) and (4)(c). (3 DEG FEL)(LEVEL 1)

against the form of the statute, to the evil example of all others, and against the peace and dignity of the State
of Florida.

I hereby certify that I have advised the Grand Jury returning this indictment as authorized and required by law.


Assistant State Attorney of the
Fifteenth Judicial Circuit of the State
of Florida, prosecuting for the said
State



July 17, 2006
DATE

EXHIBIT "A"

Jeffrey E. Epstein, Race: White, Sex: Male, DOB: January 20, 1953, SS#: 090-44-3348; Issue Warrant

AFFIDAVIT OF JACK A. GOLDBERGER, ESQUIRE

STATE OF FLORIDA) SS
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared having personal knowledge and being duly sworn, deposes and says:

1. I, **Jack A. Goldberger**, have personal knowledge of the matters set forth herein. I am an attorney licensed to practice in the State of Florida since 1978. I am a partner with the law firm of Atterbury Goldberger & Weiss, P.A., located at One Clearlake Centre, Suite 1400, 250 Australian Avenue South, West Palm Beach, FL 33401.

2. My practice includes and specializes in the defense of criminal matters. I am board certified in criminal law. I have been and currently am the criminal defense attorney for JEFFREY EPSTEIN.

3. I represented Mr. EPSTEIN in the negotiation of and entering into a Non-Prosecution Agreement with the United States Attorney's Office (USAO) for the Federal Southern District of Florida. The terms and conditions of the Non-Prosecution Agreement also entailed the entering of a Plea Agreement with the State Attorney's Office, Palm Beach County, State of Florida. (The Non-Prosecution Agreement shall hereinafter be referred to as the "NPA").

4. By its terms, the NPA took effect on June 30, 2008. Also, pursuant to the terms of the NPA, any criminal prosecution against EPSTEIN is deferred as long as the terms and conditions of the NPA are fulfilled by EPSTEIN.

EXHIBIT B

5. The criminal matters against EPSTEIN remain ongoing until the NPA expires by its terms in late 2010, and as long as the USAO determines EPSTEIN has complied with those terms and conditions. The threat of criminal prosecution against EPSTEIN by USAO in the Southern District of Florida continues presently and through late 2010.

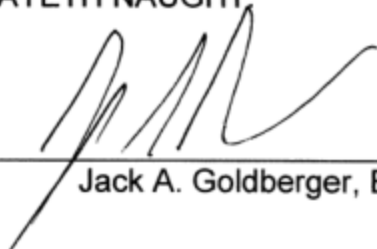
6. Pursuant to the terms of the NPA, the USAO possesses the right to declare that the agreement has been breached, give EPSTEIN's counsel notice, and attempt to move forward with a prosecution. As of the date of this Affidavit, the USAO has taken the position on a number of occasions that it might consider the following actions by EPSTEIN to be a breach of the NPA.

- Investigation by EPSTEIN (by and through his attorneys) of this Plaintiff and the other Plaintiffs in other pending civil cases for purposes of defending the civil actions;
- EPSTEIN's contesting damages in this action and other civil actions.
- EPSTEIN or his legal representatives making statements to the press about this Plaintiff or the other Plaintiffs.
- Using the word "jail" instead of "imprisonment" in the plea agreement with the Palm Beach County State Attorney's Office.

7. EPSTEIN, through counsel, submitted a Freedom of Information Act request to the Federal Bureau of Investigation (FBI) for documents relating to this and the other cases; the FBI denied the request stating the materials are at this time exempt from disclosure because they are in an investigative file, i.e. the matter is still an ongoing criminal investigation.

8. The NPA expires in late 2010.

FURTHER THE AFFIANT SAYETH NAUGHT,

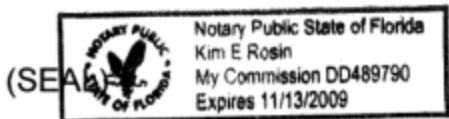


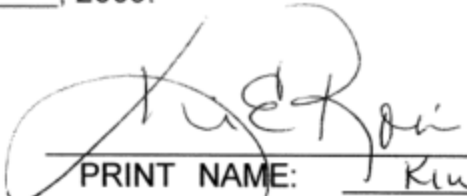
Jack A. Goldberger, Esq.

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Jack A. Goldberger, Esquire, known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above named person: Known Personally, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this 19th day of February, 2009.





PRINT NAME: Kim E Rosin
NOTARY PUBLIC/STATE OF FLORIDA
COMMISSION NO.: DD489790
MY COMMISSION EXPIRES: 11/13/2009

*orig
plead*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

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

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

_____ /

**DEFENDANT EPSTEIN'S RESPONSE & OBJECTIONS
TO PLAINTIFF'S AMENDED FIRST SET OF INTERROGATORIES**

Defendant, JEFFREY EPSTEIN, by and through his undersigned attorneys, serves his responses and objections to Plaintiff's December 9, 2008 Amended First Set Of Interrogatories To Defendant Jeffrey Epstein, attached hereto.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing has been sent by fax and U.S. Mail to the following addressees this 26th day of January, 2009:

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Co-Counsel for Defendant Jeffrey Epstein

COMPOSITE EXHIBIT "C"

*orig. signature page
to Herman
cc: 16, J.E., DT*

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Respectfully submitted,

By: _____
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**DEFENDANT JEFFREY EPSTEIN'S ANSWERS AND OBJECTIONS TO
PLAINTIFF'S AMENDED FIRST SET OF INTERROGATORIES**

Interrogatory No. 1. Identify all employees who performed work of services inside the Palm Beach Residence.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005." Plaintiff's interrogatory seeks information for a time period from January 1, 2003 until present. Also, see "Employee" as defined in paragraph g of Plaintiff's interrogatories.

Interrogatory No. 2. Identify all Employees not identified in response to interrogatory no. 1 who at any time came to Defendant's Palm Beach Residence.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005." Plaintiff's interrogatory seeks information for "all Employees" "who at any time" came to the residence. Also, see "Employee" as defined in paragraph g of Plaintiff's interrogatories.

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Interrogatory No. 3. Identify all persons who came to the Palm Beach Residence and who gave a massage or were asked to give a massage to Defendant.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005."

Interrogatory No. 4. Identify all persons who came to the New York Residence and who gave a massage or were asked to give a massage to Defendant.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005."

Interrogatory No. 5. Identify all persons who came to the New Mexico Residence and who gave a massage or were asked to give a massage to Defendant.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my

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federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005."

Interrogatory No. 6. Identify all persons who came to the St. Thomas Residence and who gave a massage or were asked to give a massage to Defendant.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005."

Interrogatory No. 7. List all the time periods during which Jeffrey Epstein was present in the State of Florida, including for each the date he arrive and the date he departed.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant also objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the

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discovery of admissible evidence. Plaintiff's Complaint alleges a time period of "in or about 2004-2005." Plaintiff's interrogatory seeks information for a time period from January 1, 2003 until present.

Interrogatory No. 8. Identify all of Jeffrey Epstein health care providers in the past (10) ten years, including without limitation, psychologists, psychiatrists, mental health counselors, physicians, hospitals and treatment facilities.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant also objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. In addition, such information is privileged pursuant to Rule 501, Fed. Evid., and §90.503, Fla.Evid. Code. In addition, such information is protected by the provisions of the Health Insurance Portability and Accountability Act (HIPAA).

Interrogatory No. 9. List all items in Jeffrey Epstein's possession in Palm Beach, Florida, at any time during the period of these interrogatories, which were used or intended to be used as sexual aids, sex toys, massage aids, and/or vibrators, and for each, list the manufacturer, model number (if applicable), and its present location.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant also objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's Amended Complaint alleges a time period of "in or about 2004 – 2005," while Plaintiff's interrogatory seeks information from

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January 1, 2003, until present. Further, the request is meant to embarrass and harass the Defendant.

Interrogatory No. 10. Identify all persons who provide transportation services to Jeffrey Epstein, whether as employees or independent contractors, including without limitation, chauffeurs and aircraft crew.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant also objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff places no time limitation.

Interrogatory No. 11. Identify all telephone numbers used by Epstein, including cellular phones and land lines in any of his residences, by stating the complete telephone number and the name of the service provider.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant also objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's allegations claim a time period of "in or about 2004-2005" and involve Defendant's Palm Beach residence.

Interrogatory No. 12. Identify all telephone numbers of employees of Epstein, used in the course or scope of their employment, including cellular phones and land lines in any of his residences, by stating the complete telephone number and the name of the service provider.

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Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects as the interrogatory is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's allegations claim a time period of "in or about 2004-2005" and involve Defendant's Palm Beach residence.

Interrogatory No. 13. List the names and addresses of all persons who are believed or known by you, your agents, or your attorneys to have any knowledge concerning any of the issues in this lawsuit; and specify the subject matter about which the witness has knowledge.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the interrogatory seeks information that is attorney-client and work product privileged as it seeks information known by Defendant's attorneys. The interrogatory is so overbroad that Defendant cannot reasonably form a response, including the raising of additional privileges which may apply. Without waiving any objection, see Rule 26 disclosures made by Defendant's counsel in this case.

Interrogatory No. 14. State the name and address of every person known to you, your agents, or your attorneys who has knowledge about, possession, or custody, or control of, any model, plat, map, drawing, motion picture, videotape or photograph pertaining to any fact or issue involved in this controversy; and describe as to each, what item such person has, the name and address of the person who took or prepared it, and the date it was taken or prepared.

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Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the interrogatory seeks information that is attorney-client and work product privileged as it seeks information known by Defendant's attorneys.

Interrogatory No. 15. Identify all persons who have made a claim, complaint, demand or threat against you relating to alleged sexual abuse or misconduct on a minor, and for each provide the following information:

- a. The person's full name, last known address and telephone number;
- b. The person's attorney, if represented;
- c. The date of the alleged incident(s);
- d. If a civil case has been filed by or on behalf of the person, the case number and identifying information.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges and without waiving such objection, with regard to subparagraph (d), Defendant's counsel states that such information is public record and equally attainable by Plaintiff.

Interrogatory No. 16. State the facts upon which you intend to rely for each denial of a pleading allegation and for each affirmative defense you intend to make in these cases.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk

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losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, no answer to the Amended Complaint has been filed by defense counsel in this case; however, Defendant does not intend to waive his constitutional privilege against self-incrimination. Defendant further objects in that Plaintiff's interrogatory attempts to obtain discovery in other cases filed by her undersigned counsel.

Interrogatory No. 17. Identify all witnesses from whom you have obtained or requested a written, transcribed or recorded statement relating to any issue in these cases, and for each, in addition to the witness's identifying information, state the date of the statement and identify the person taking the statement.

Answer: Defendant is asserting specific legal objections to the interrogatories as well as his U.S. constitutional privileges. I intend to respond to all relevant questions regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any questions relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, Defendant objects to this interrogatory in that it seeks information that is attorney-client and work product privileged. In addition, the request is overbroad in that it seeks information "relating to any issue."



STATE OF Florida)
)
COUNTY OF Palm Beach)

I hereby certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Jeffrey Epstein, known to me to be the person described in and who executed the foregoing Interrogatories who

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acknowledged before me that he/she executed the same, that I relied upon the following form of identification of the above-named person: personally known/identification, and that an oath was/was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this 26th
day of January, 2009.

(SEAL)

NOTARY PUBLIC-STATE OF FLORIDA
Nayanira Alanis
Commission # DD841844
Expires: DEC. 01, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

Nayanira Alanis
PRINT NAME: Nayanira Alanis
Notary Public/State of Florida
Commission #: _____
My Commission Expires: _____

*orig
filed*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

_____ /

**DEFENDANT JEFFREY EPSTEIN'S RESPONSE & OBJECTIONS TO
SECOND REQUEST FOR PRODUCTION, dated December 19, 2008**

Defendant, JEFFREY EPSTEIN, by and through his undersigned attorneys, serves his responses and objections to the Request to Produce, dated December 19, 2008 and states:

Request No. 1. All policies of insurance, including the declarations page and all binders, amendments, and endorsements, covering Defendant's residence at 358 El Brillo Way, Palm Beach, FL 33480.

Response: Objection, overly broad, not relevant and material and not calculated to lead to the discovery of admissible evidence. Plaintiff alleged claims occurred during a specific time period in 2004 – 2005, yet to be specifically identified. Yet, no time period whatsoever is set forth in the Request for Production. Additionally, Defendant objects in that the policies contain value and/or asset information which is not relevant, material nor calculated to lead to the discovery of admissible evidence at this point in time; said information is both private and confidential.

cc JE, JG, DI

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Certificate of Service

WE HEREBY CERTIFY that a true copy of the foregoing has been sent via U.S. Mail and facsimile to the following addressees this 26th day of January, 2009.

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Co-Counsel for Defendant Jeffrey Epstein

Respectfully submitted,

By: 
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(Co-counsel for Defendant Jeffrey Epstein)

*orig
plead*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

_____ /

**DEFENDANT JEFFREY EPSTEIN'S RESPONSE & OBJECTIONS
TO PLAINTIFF'S AMENDED FIRST REQUEST FOR PRODUCTION**

Defendant, JEFFREY EPSTEIN, by and through his undersigned counsel, serves his responses and objections to Plaintiff's Amended First Request For Production To Defendant, dated December 9, 2008.

Request No. 1. The list provided to you by the U.S. Attorney of individuals whom the U.S. Attorney was prepared to name in an Indictment as victims of an offense by Mr. Epstein enumerated in 18 U.S.C. §2255.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference

cc-JE-VG-DI

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under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated.

Request No. 2. All documents referring or relating to the United States' agreement with Defendant to defer federal prosecution subject to certain conditions, including without limitation, the operative agreement between Defendant and the United States and all amendments, revisions and supplements thereto.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my

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constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated.

Request No. 3. All documents referring or relating to Defendant's agreement with the State of Florida on his plea of guilty to violations of Florida Criminal Statutes, including without limitation, the operative plea agreement and any amendments, revisions and supplements thereto.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the

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information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Whatever public documents exist are in the State Court file and equally accessible to Plaintiff.

Request No.4. All documents obtained in discovery or investigation relating to either the Florida Criminal Case or the Federal Criminal Case, including without limitation, documents obtained from any federal, state, or local law enforcement agency, the State Attorney's office and the United States Attorney's office.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the

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information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Request No. 4 seeks documents that are attorney-client and work product privileged in that it seeks "all documents obtained in discovery or investigation relating either to the Florida Criminal Case or the Federal Criminal Case" In addition, such documents are privileged and confidential as they are the subject of a pending investigation.

Request No. 5. All telephone records and other documents reflecting telephone calls made by or to Defendant, including without limitation, telephone logs and message pads.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the

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Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Defendant objects as the request is overbroad and seeks information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks information for a time period of January 1, 2003 until present regarding any and all telephone records and other documents reflecting any and all telephone calls made to or by Defendant. As phrased, the request includes attorney-client and work product privileged information, as well as records and documents of calls having absolutely no relationship to any of the allegations in this action.

Request No. 6. All telephone records and other documents reflecting telephone calls made by or to Defendant, including without limitation, telephone logs and message pads, reflecting telephone calls made by or to employees.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce

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documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, as defined by Plaintiff in paragraph g of her request, the term employee is overly broad and encompasses information that is neither relevant to the subject matter of the pending action nor does it appear reasonably calculated to lead to the discovery of admissible evidence. Further, the request seeks information pertaining to person who are not parties to this action and whose privacy rights are implicated.

Request No. 7. All surveillance videos, slides, film, videotape, digital recording or other audio or video depiction or image of the Palm Beach Residence.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my

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Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks information for a time period of January 1, 2003 until present regarding "all surveillance videos, etc., or image of the Palm Beach Residence."

Request No. 8. All documents referring or relating to Plaintiff Jane Doe No. 2, including without limitation, web pages, social networking site pages, correspondence, videotapes and audiotapes.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my

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Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential.

Request No. 9. All statements taken, transcribed or recorded from any person referring or relating to Defendant's sexual conduct, massages given to Defendant or any issue in these cases.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the

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Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential.

Request No. 10. All documents referring to or relating to air travel and aircraft used by Defendant, including without limitation, flight logs and flight manifests.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks documents for a

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time period of January 1, 2003 until present regarding air travel and aircraft used by Defendant.

Request No. 11. Any and all documents referring to or relating to modeling agencies, including but not limited to documents relating to or reflecting communications with female models.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 12. All photographs, videotapes, digital images and other documents depicting or showing females who, at the time thereof, were under the age of 21, which were taken or created by or for Defendant and not intended for sale commercially to the public.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 13. All photographs and painting of females which were displayed in any of Defendant's homes or residences in the time frame of these requests, including without limitation, photographs in standing or sitting frames or wall frames.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 14. Any and all documents consisting of, referring or relating to communications between Jeffrey Epstein and [REDACTED] including, but not limited to, letters, notes, text messages, messages on social networking sites, and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 15. Any and all documents consisting of, referring or relating to communications between Jeffrey Epstein and [REDACTED], including, but not limited to, letters, notes, text messages, messages on social networking sites, and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 16. Any and all documents consisting of, referring or relating to communications between Jeffrey Epstein and [REDACTED], including, but not limited to, letters, notes, text messages, messages on social networking sites, and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 17. Any and all documents consisting of, referring or relating to communications between Jeffrey Epstein and Ghislaine Maxwell, including, but not limited to, letters, notes, text messages, messages on social networking sites, and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request has no time limitation.

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Request No. 18. Any and all documents and photographs placed by Defendant at any time in the period of these requests on a social networking website, including without limitation, Facebook.com and MySpace.com.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Plaintiff's request seeks documents and photographs for a time period of January 1, 2003 until present.

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Request No. 19. Any and all documents reflecting or consisting of communications between Jeffrey Epstein and MC2 Models or Jean-Luc Brunel, relating or referring to females coming into the United States from other countries to pursue a career in modeling, including, but not limited to, letters, notes and e-mails.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 –

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2005.” In addition, the request seeks documents pertaining to females who are not non-parties, and who possess privacy rights.

Request No. 20. Any and all documents referring or relating to gifts or loans to females under the age of 21, including, but not limited to, notes, receipts and car rental agreements.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff’s complaint alleges a time period of “in or about 2004 – 2005.” Plaintiff’s request has no time limitation.

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Request No. 21. Any and all personal calendars or schedules of or for Jeffrey Epstein from January 1, 2003 to the present.

Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." In addition, the request encompasses attorney-client privileged material.

Request No. 22. All documents written by Jeffrey Epstein consisting of personal thoughts, feelings or descriptions of events, incidents or occurrences in Defendant's life, including without limitation, any diaries of Jeffrey Epstein.

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Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." On its fact, the request goes beyond the scope of allowable discovery and is meant to harass, embarrass and overburden the Defendant. Further, the request is so overly broad that it includes attorney-client and work product privileged materials.

Request No. 23. All documents referring to or relating to Jeffrey Epstein's purchase or consumption of prescription medicine.

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Response: Defendant is asserting specific legal objections to the production request as well as his U.S. constitutional privileges. I intend to produce all relevant documents regarding this lawsuit, however, my attorneys have counseled me that at the present time I cannot select, authenticate, and produce documents relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. In addition to and without waiving his constitutional privileges, the information sought is privileged and confidential, and inadmissible pursuant to the terms of the deferred prosecution agreement, Fed. Rule of Evidence 410 and 408, and §90.410, Fla. Stat. Further, the request is overly broad, work product, attorney-client privileged, and confidential. In addition, the request seeks information concerning persons, not parties to this litigation, whose privacy rights are implicated. Plaintiff's complaint alleges a time period of "in or about 2004 – 2005." Defendant's medical condition is not at issue in this action. Such a request is meant to harass and embarrass Defendant. Further, such information is privileged pursuant to Fed. Rule 501 and §90.503, Fla. Stat. In addition, such information is protected by the provisions of the Health Insurance Portability and Accountability Act (HIPAA).

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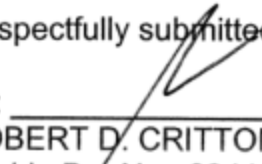
Certificate of Service

WE HEREBY CERTIFY that a true copy of the foregoing has been sent via U.S. Mail and facsimile to the following addressees this 26th day of January, 2009.

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Respectfully submitted,

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