

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092,

**PLAINTIFF JANE DOE NO. 4'S MOTION FOR
SANCTIONS AND MOTION FOR PROTECTIVE ORDER
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff, Jane Doe No. 4, by and through undersigned counsel, hereby files this Motion for Sanctions and Motion for Protective Order and Incorporated Memorandum of Law, and states as follows:

1. By now, this Court is familiar with Jeffrey Epstein's practice of intimidating and harassing his victims, as well as the Plaintiffs' level of fear of Jeffrey Epstein. See, *e.g.* Plaintiffs Jane Doe No. 101 and Jane Doe No. 102's Motion for No-Contact Order (D.E. 113); Plaintiffs Jane Does 2-7's Response to Defendant's Motion to Compel and/or Identify Plaintiffs in the Style of this Case (D.E. 144); Plaintiffs Jane Does' 2-7 Motion for Protective Order and Incorporated Memorandum of Law (D.E. 223); Plaintiffs Jane Doe Nos. 2-8's Motion for

Protective Order as to Jeffrey Epstein's Attendance at Deposition of Plaintiffs, and Incorporated Memorandum of Law (D.E. 292); Affidavit of Dr. Kliman (D.E. 223, Exh. A).

2. On September 16, 2009, Jeffrey Epstein's conduct reached a new low when he recklessly violated (i) this Court's No-Contact Order dated July 31, 2009; and (2) a written stipulation between the parties that Jeffrey Epstein would not attend the deposition of Jane Doe No. 4 or be seen by Jane Doe No. 4 while attending her deposition.

3. Prior to the deposition of Jane Doe No. 4, the Plaintiffs filed a Motion for Protective Order to preclude Jeffrey Epstein from attending the depositions of the Plaintiffs. The Motion was filed for the specific purpose of preventing Jeffrey Epstein from intimidating or harassing the Plaintiffs as he has repeatedly done in the past. As the Motion had not been adjudicated prior to the deposition of Jane Doe No. 4, Plaintiff's counsel stipulated with defense counsel that "Jeffrey Epstein will not attend the deposition of Jane Doe No. 4." It was further stipulated that Jeffrey Epstein may listen to the deposition by telephone or view a videofeed of the deposition, but under no circumstances was he to be seen by our client while attending the deposition. (See Exhibit "C", email of September 15, 2009). These were express conditions agreed to by counsel before Jane Doe No. 4 would appear for deposition on September 16, 2009.

4. The deposition of Jane Doe No. 4 was scheduled for 1:00 p.m. on September 16, 2009 at 350 Australian Ave South, Suite 115, West Palm Beach, Florida.

5. At approximately 1:00 p.m. on September 16, 2009, Jane Doe No. 4 and her counsel were walking in the lobby of 350 Australian Ave South, Suite 115, West Palm Beach, Florida, toward the ground-floor conference room where her deposition was to be held.¹ Just a

¹ Defendant's counsel set the deposition of Jane Doe No. 4 for the same office building where Jeffrey Epstein has an office.

few feet away from this conference room, Jeffrey Epstein crossed paths with Jane Doe No. 4. Jeffrey Epstein stopped walking and began staring at her. He intimidated her until she began to cry. Jeffrey Epstein made no immediate attempt to walk away from our client. Instead, he stopped and continued to stare at her until she ran away. Jeffrey Epstein was accompanied by what appeared to be his bodyguard. See Declaration of Adam Horowitz, counsel for Jane Doe No. 4, Exhibit "A".

6. Jane Doe No. 4 became an emotional wreck upon being stared at by Jeffrey Epstein, whom she believed she would not encounter. After attempting to console his client, Plaintiff's counsel cancelled the deposition after a brief discussion with defense counsel about the events that occurred in the lobby. See Transcript of Deposition of Jane Doe No. 4, Exhibit "B".

7. Jeffrey Epstein's contact with and intimidation of Jane Doe No. 4 is in direct violation of this Court's No-Contact Order dated July 31, 2009. In that Order, this Court stated that Jeffrey Epstein shall have no "direct or indirect contact" with the Plaintiffs. (D.E. 238).

8. The July 31, 2009 Order mirrored the June 30, 2008 criminal sentence entered by Palm Beach Circuit Court Judge Deborah Dale Pucillio, wherein she instructed Jeffrey Epstein that he shall have "no direct or indirect contact" with the Plaintiffs. (D.E. 238)

9. **There can be no doubt that Jeffrey Epstein knew where Jane Doe No. 4 would be at 1 p.m. on September 16, 2009. Of all of the places he could have been, he chose to be at the location of her deposition in flagrant disregard of two (2) No-Contact Orders and the stipulation of the parties in this case. Even worse, when he saw Jane Doe No. 4, he chose to stop and stare her down to the point of intimidation until she began to cry and flee.**

10. This Court has discretion to enter a protective order to protect a party from annoyance, embarrassment or oppression. Fed.R.Civ.P. 26(c). In this regard, the Court has discretion for cause shown to, *inter alia*, designate the persons who may attend depositions, and specify the time and place of discovery. Fed.R.Civ.P. 26(c)(1)(A) and (E). Additionally, this Court has authority to sanction a party for civil contempt for violating the terms of a court order. See Sizzler Family Steak Houses v. Western Sizzlin Steak House, Inc., 793 F.2d 1529, 1534-35 (11th Cir. 1986) (attorneys' fees may be awarded for civil contempt in failure to comply with court order).

11. Jeffrey Epstein is a felon and registered sex offender. Judicial oversight, at Jeffrey Epstein's expense, is required to keep his conduct under control.

12. Given Jeffrey Epstein's violation of this Court's No-Contact Order and the written stipulation of the parties, appropriate sanctions and other relief are necessary to compensate Plaintiff Jane Doe No. 4 and prevent future misconduct by Defendant Epstein.

WHEREFORE, Plaintiff, Jane Doe No. 4, respectfully requests (1) an award of sanctions, including attorneys' fees and costs reasonably and necessarily incurred by Plaintiff due to Defendant's non-compliance with the Court's No-Contact Order; (2) an Order excusing Jane Doe No. 4 from her deposition on September 16, 2009, due to Defendant's violation of the No-Contact Order and defense counsel's breach of his promise to Plaintiff's counsel that Defendant would not be seen at Plaintiff's deposition; (3) an order directing that any depositions of Plaintiffs in the future be at a court reporter's office selected by Plaintiffs' counsel; (4) appointment of a special master to preside at Plaintiffs' depositions and control the proceeding, to be paid for by Defendant; and (5) all other relief as this Court deems just and appropriate.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

Undersigned counsel has conferred with Defendant's counsel in a good faith effort to resolve the issues raised in this motion, and has been unable to do so.

Dated: September 17, 2009.

Respectfully submitted,

By: s/ Adam D. Horowitz
Stuart S. Mermelstein (FL Bar No. 947245)
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Adam D. Horowitz (FL Bar No. 376980)
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Tel: (305) 931-2200
Fax: (305) 931-0877

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day to all parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Adam D. Horowitz

SERVICE LIST
DOE vs. JEFFREY EPSTEIN
United States District Court, Southern District of Florida

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 2,

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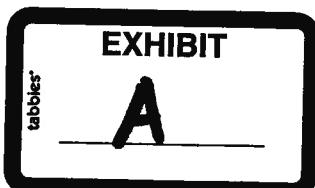
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DECLARATION OF ADAM D. HOROWITZ

1. My name is Adam D. Horowitz. I am an attorney for Jane Doe No. 4. 2. The deposition of Jane Doe No. 4 was scheduled for September 16, 2009 at 1:00 p.m. at 350 Australian Ave. South, Suite 115, West Palm Beach, Florida. On the day before the deposition, the undersigned and counsel for Jeffrey Epstein entered into a written stipulation in which it was agreed that "Jeffrey Epstein will not attend tomorrow's deposition of Jane Doe No. 4 (in the absence of a court order permitting him to attend)." It was further agreed that Jeffrey Epstein may listen in to the deposition by telephone or view a video feed of the deposition, but under no circumstances would he "be seen by our client."

3. While Jane Doe No. 4 and I were in the lobby of 350 Australian Ave South at approximately 1:00 p.m. for her deposition on September 16, 2009, we crossed paths with Jeffrey Epstein and someone who appeared to be his bodyguard. Jeffrey Epstein stopped



walking and began to stare at and intimidate Jane Doe No. 4. Jane Doe No. 4 was terrified, began crying and ran outside the building. Jeffrey Epstein smirked at her and walked away.

4. As a result of this incident, Jane Doe began crying uncontrollably and was unable to proceed with her deposition.

Under penalties of perjury I declare that I have read the foregoing Declaration and the facts stated in it are true.

Dated: September 17, 2009



Adam D. Horowitz

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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-----/ DEPOSITION OF JANE DOE #4

Wednesday, September 16, 2009
1:03 - 1:08 p.m.

250 Australian Avenue South
Suite 115
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting



1 APPEARANCES:

2 On behalf of the Plaintiff:

3 ADAM D. HOROWITZ, ESQUIRE
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6 Suite 2218
7 Miami, Florida 33160
8 Phone: 305.931.2200

9 On behalf of the Defendant:

10 ROBERT D. CRITTON, JR., ESQUIRE
11 MARK T. LUTTIER, ESQUIRE
12 BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
13 303 Banyan Boulevard
14 Suite 400
15 West Palm Beach, Florida 33401
16 Phone: 561.842.2820

17 On behalf of Jeffrey Epstein:

18 JACK ALAN GOLDBERGER, ESQUIRE
19 ATTERBURY, GOLDBERGER & WEISS, P.A.
20 250 Australian Avenue South
21 Suite 1400
22 West Palm Beach, Florida 33401-5012
23 Phone: 561.659.8300

24 On behalf of LM and EW:

25 WILLIAM J. BERGER, ESQUIRE
ROTHSTEIN, ROSENFELDT, ADLER
401 East Las Olas Boulevard
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Fort Lauderdale, Florida 33301
Phone: 954.522.3456

26 On behalf of CMA:

27 JACK P. HILL, ESQUIRE
28 SEARCY, DENNEY, SCAROLA,
29 BARNHART & SHIPLEY, P.A.
30 2139 Palm Beach Lakes Boulevard
West Palm Beach, Florida 33409

1 APPEARANCES CONTINUED...

2

3 On behalf of BB:

4 ADAM J. LANGINO, ESQUIRE
5 LEOPOLD KUVIN
6 2925 PGA Boulevard
7 Suite 200
8 Palm Beach Gardens, Florida 33410
9 Phone: 561.515.1400

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1 P R O C E E D I N G S
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3 MR. HOROWITZ: Adam Horowitz, counsel for
4 Plaintiff, Jane Doe 4.

5 MR. CRITTON: Cindy, what time is it?

6 THE COURT REPORTER: It is 1:03.

7 MR. BERGER: William J. Berger for LM and
8 EW.

9 MR. HILL: Jack Hill for CMA.

10 MR. LANGINO: Adam Langino from
11 Leopold Kuvin on behalf of BB.

12 MR. LUTTIER: Mark Luttier on behalf of
13 Burman, Critton, Luttier & Coleman for the
14 Defendant.

15 MR. CRITTON: Robert Critton on behalf of
16 Defendant, Jeffrey Epstein.

17 MR. HOROWITZ: This is Adam Horowitz.
18 We're canceling today's deposition. Before
19 appearing here today, we had a stipulation with
20 Defense counsel that Mr. Jeffrey Epstein, the
21 Defendant, would not be here. He would not
22 cross paths with our client.

23 And immediately as we were approaching the
24 deposition room, he made face-to-face contact
25 with our client. He was just feet away from

15 (Mr. Goldberger entered the room.)

22 I directed Mr. Epstein to leave the
23 building so he would not be here so that there
24 would be no way that your paths could have
25 crossed. It was neither my intent nor was it

1 my client's intent specifically, because I also
2 advised him that he was not to cross paths, not
3 to have any contact with your client, and
4 certainly by our agreement not to be here today
5 for the deposition.

6 MR. HOROWITZ: And at approximately 1:00
7 is exactly when my client crossed paths with
8 Jeffrey Epstein. And not only did he cross
9 paths but he proceeded to stare her down just
10 feet away from her. For that reason she became
11 an emotional wreck and cannot proceed with the
12 deposition. She's simply not in an emotional
13 state to do so.

14 And in addition Mr. Epstein violated the
15 agreement between counsel that he would not
16 cross paths or come into contact with our
17 client. And it will be also for the criminal
18 court judge to decide whether he has violated a
19 no-contact order. I have nothing else to say.

20 MR. CRITTON: Again I instructed
21 Mr. Epstein to leave the building so absolutely
22 no contact could occur between he and
23 Mr. Horowitz and his client nor anyone else.
24 Until the court, until either Judge Marra or
25 Judge Johnson ruled on the issue as to whether

1 or not he could appear at the depositions of
2 not only Jane Doe 4 but any other individuals,
3 so you do what you need to do.

4 MR. HOROWITZ: Off the record.

5 (The Deposition was concluded.)

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1 C E R T I F I C A T E
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3 STATE OF FLORIDA
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5 COUNTY OF PALM BEACH
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7 I, Cynthia Hopkins, Registered Professional
8 Reporter and Florida Professional Reporter, State of
9 Florida at large, certify that I was authorized to
10 and did stenographically report the foregoing
11 proceedings and that the transcript is a true and
12 complete record of my stenographic notes.

13 Dated this 16th day of September, 2009.
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16 Cynthia Hopkins, RPR, FPR
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Adam Horowitz

From: Adam Horowitz
Sent: Tuesday, September 15, 2009 11:43 AM
To: 'Michael J. Pike'; 'Robert D. Critton Jr.'
Cc: Stuart Mermelstein
Subject: Jane Does v. Epstein

Please allow this to confirm that Jeffrey Epstein will not attend tomorrow's deposition of Jane Doe No. 4 (in the absence of a Court order permitting him to attend). We understand you may wish to have your client listen in by telephone or view a videofeed of the deposition, but will not be seen by our client.

Regards,

Adam D. Horowitz, Esq.
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