

Troutman Sanders LLP
875 Third Avenue
New York, New York 10022

troutman.com



Bennet J. Moskowitz
D: 212-704-6000
bennet.moskowitz@troutman.com

April 15, 2020

VIA ECF

Hon. Debra C. Freeman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: VE, 1:19-cv-07625-AJN-DCF; Katlyn Doe, 1:19-cv-07771-PKC-DCF; Priscilla Doe, 1:19-cv-07772-ALC-DCF; Lisa Doe, 1:19-cv-07773-ER-DCF; Anastasia Doe, 1:19-cv-11869-MKV-DCF

Dear Judge Freeman:

We represent Defendants Darren K. Indyke and Richard D. Kahn, as Co-Executors of the Estate of Jeffrey E. Epstein, in the above-referenced actions. We write in response to the "Status Update" dated April 15, 2020, submitted by plaintiffs' counsel, Brad Edwards and Brittany Henderson, to Your Honor (ECF Doc. 27).

Mr. Edwards and Ms. Henderson's letter is accurate in several important respects:

First: The Co-Executors have – with no legal obligation to do so – worked hard for more than five months to establish an independent and voluntary claims resolution program, titled the "Epstein Victims' Compensation Program," for purposes of resolving sexual abuse claims against Mr. Epstein. If the Program fails to launch, it will be an extraordinary lost opportunity for eligible claimants to receive compensation and voluntarily resolve their claims through a confidential, non-adversarial alternative to litigation.

Second: After interviewing several potential candidates to design and administer the Program, the Co-Executors selected the nationally acclaimed trio of Jordana Feldman, Kenneth Feinberg and Camille Biros, who have designed, implemented and administered extensive mass tort compensation programs including the September 11th Victim Compensation Fund, those involving the Roman Catholic Church sex-abuse scandals, the BP Deepwater Horizon oil spill in the Gulf of Mexico, the Agent Orange toxic chemical matter, and several others. (Mr. Feinberg in particular had been suggested by some plaintiffs' counsel for such a role in the Epstein matter.) While some plaintiffs' counsel had their own preferred candidates, none has challenged the integrity, independence or extraordinary qualifications of Ms. Feldman, Mr. Feinberg and Ms. Biros. **As Mr. Edwards and Ms. Henderson themselves note, they have "gained confidence in the Estate selected Administrator, Jordana Feldman, and believes**

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she is best suited to serve in the role as Program Administrator.” (ECF Doc. 27 p. 2 (emphasis added).)

Third: The Attorney General of the United States Virgin Islands, Denise George, is the only person who has consistently sought to defeat the Program, filing in the Superior Court of the Virgin Islands her proposed opposition to that Program on January 23, 2020 – months after the Co-Executors and plaintiffs’ counsel had worked tirelessly to commence it – and later that month imposing broad liens on the Epstein Estate’s bank accounts, thereby preventing the Co-Executors from funding the Program. As Mr. Edwards and Ms. Henderson accurately observe, **“counsel for the victims agreed with the Program moving forward as it was prior to the Attorney General’s intervention.”** (*Id.* (emphasis added).) Although the Epstein Estate is being probated in the Virgin Islands (where Mr. Epstein resided at his death and where he beneficially owned real property for many years before then), there are no known claimants residing there—Attorney General George has never suggested otherwise.

In other respects, however, Mr. Edwards and Ms. Henderson omit facts important to understanding Attorney General George’s improper efforts to re-shape the Program to her own liking. As envisioned by the Program, legitimate claimants will be able to learn the Program Administrator’s compensation determination in their cases – made entirely independent of the Estate, and not subject to its review – before electing whether to accept it. Only if a claimant decides to accept that compensation would she execute a release of the Estate, the Co-Executors and a defined group of individuals and entities affiliated with Mr. Epstein; importantly, **third parties unaffiliated with Mr. Epstein would not be released.** Plaintiffs’ counsel has accepted that proposed release: as Mr. Edwards notes, **“we have confidence and trust in the Program Administrator and her independence from the Estate and the fact that the claimants will have lawyers to advise them about the pros and cons of any settlement, including what she may be giving up.** In that sense, the Program as designed, despite a less than optimal proposed release, is better than no program at all.” (*Id.* at p. 4 (emphasis added).)

While such a third-party release is standard practice in mass tort compensation programs -- the one contemplated by the Program is in fact modeled on the release used in the Catholic Church compensation programs -- Mr. Edwards’ and Ms. Henderson’s clients would no doubt prefer no release at all, or one that would permit them to “double dip” by collecting from the Estate twice: once under the Program and again by suing persons who would implead the Co-Executors under theories of indemnification, contribution, respondeat superior or otherwise. The Co-Executors’ fiduciary obligations to the Estate under Virgin Islands law – and, indeed, common sense – do not permit them to allow such limitless exposure.

As another example of Mr. Edwards’ and Ms. Henderson’s mischaracterizations, while the Co-Executors readily accepted the suggestion of University of Pennsylvania law professor Marci Hamilton as a consulting resource for the Program Administrator on issues of child sexual abuse, they could not in the proper discharge of their fiduciary duties accede to Attorney General George’s insistence that Ms. Hamilton occupy a co-equal role with Ms. Feldman as Co-Program Administrator. Ms. Hamilton has no experience administering mass tort compensation programs and has repeatedly publicly inveighed against those associated in any way with Mr.

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Epstein.¹ She is a zealous advocate, and not a neutral fact-finder to whom the Co-Executors could properly defer decision-making authority in distributing Estate funds to resolve claims against the Estate.

Finally, there is no need for the relief that Mr. Edwards and Ms. Henderson now request – i.e., this Court's intervention in the Co-Executors' ongoing efforts in the Virgin Islands to establish the Program over Attorney General George's repeated efforts to eviscerate it. The Co-Executors have sought the approval of the Superior Court of the Virgin Islands to establish the Program, and are awaiting a ruling from the Honorable Carolyn Hermon-Percell so that they can finally move forward with the Program as originally presented to that court in November 2019 and approved by Mr. Edwards and multiple other plaintiffs' counsel. (We attach a copy of the Co-Executors' two most recent filings on that subject with the USVI court, dated March 24 and April 10, 2020.) We will of course keep Your Honor informed of the outcome of that application.

Respectfully submitted,

s/Bennet J. Moskowitz
Bennet J. Moskowitz

cc: Counsel of Record (via ECF)

¹ See, e.g., Marci A. Hamilton, *Jeffrey Epstein and His Enablers Are Evil, But Not Special: He's Just the Latest Example of a Toxic Culture for Children* (Jul. 15, 2019) (available at: <https://verdict.justia.com/2019/07/15/jeffrey-epstein-and-his-enablers-are-evil-but-not-special>), in which Ms. Hamilton states: "One person alone could not have accomplished the full scope of Epstein's scheme. You need help to successfully abuse dozens and hundreds of children, and everyone needs to pitch in to make it a success."