

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

JANE DOE NO. 2,

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

Plaintiff,

vs.

JEFFREY EPSTEIN

Defendant.

JANE DOE NO. 3,

CASE NO.: 08-CV-80232-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN

Defendant.

JANE DOE NO. 4,

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

Plaintiff,

vs.

JEFFREY EPSTEIN

Defendant.

JANE DOE NO. 5,

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

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

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JANE DOE NO. 6,

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

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 7,

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

Plaintiff,

JEFFREY EPSTEIN

Defendant.

C.M.A.,

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

Plaintiff,

JEFFREY EPSTEIN

Defendant.

JANE DOE,

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

Plaintiff,

JEFFREY EPSTEIN et al,

Defendants.

DOE II,

CASE NO.: 09-80469-CIV-MARRA-JOHNSON

Plaintiff,

JEFFREY EPSTEIN et al,

Defendants.

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JANE DOE NO. 101,

CASE NO.: 09-80591-CIV-MARRA-JOHNSON

Plaintiff,

JEFFREY EPSTEIN

Defendant.

JANE DOE NO. 102,

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

Plaintiff,

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT EPSTEIN'S RESPONSE TO PLAINTIFFS JANE DOE NOS. 101 AND 102'S
MOTION FOR LEAVE TO FILE UNDER SEAL RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION TO STAY OR, IN THE ALTERNATIVE, TO UNSEAL THE
NONPROSECUTION AGREEMENT (dated 5/29/09, [DE 128])**

Defendant, JEFFREY EPSTEIN, ("EPSTEIN"), by and through his undersigned attorneys responds to the Plaintiffs' Jane Doe No. 101 and Jane Doe No. 102 ("Plaintiffs") Motion For Leave To File Under Seal Response In Opposition To Defendant's Motion To Stay Or, In The Alternative, To Unseal The Nonprosecution Agreement, and states:

1. This Court has already entered orders preserving the confidentiality of the Non-Prosecution Agreement ("NPA") and denying prior attempts to have the document unsealed. See Court's Orders, attached hereto as **Exhibit A** and **Exhibit B**, respectively, entered in In Re: Jane Does 1 and 2, Petitioners, Case No. 08-80736-CIV-MARRA/JOHNSON, **A. Order To Compel Production And Protective Order**, [DE 26], dated August 21, 2008, and **B. Order** [DE 36], dated February 12, 2009, on Petitioners' Motion To Unseal Non-Prosecution Agreement [DE 28]. Both of these Orders are clear that the terms of the NPA are to remain confidential and remain

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protected from being disclosed to third parties. The NPA is an agreement between the United States Attorney's Office and EPSTEIN. Plaintiffs' motion presents nothing in support of this Court modifying its prior orders.

2. Significantly, even the United States Attorney's Office (USAO), along with Defendant, has strongly opposed making the NPA public. Attached as **Exhibit C** hereto is Respondent United States of America's *Opposition To Victims' Motion To Unseal Non-Prosecution Agreement*, dated October 8, 2008, [DE 29], also filed in In Re: Jane Does 1 and 2, Petitioners, Case No. 08-80736-CIV-MARRA/JOHNSON. In opposing the petitioners' attempts to make public the terms of the NPA, the United States in the Response, **Exhibit C**, stated:

Since the Agreement (NPA) has not been filed under seal with this Court, the legal authority cited by petitioners regarding sealing of documents, United States v. Ochoa-Vasque, 428 F.3d 1015 (11th Cir. 2005), is inapposite. The parties who negotiated the Agreement, the United States Attorney's Office and Jeffrey Epstein, determined the Agreement should remain confidential. They were free to do so, and violated no law in making such an agreement. Since the Agreement has become relevant to the instant lawsuit, petitioners have been given access to it, upon the condition that it not be disclosed further. Petitioners have no legal right to disclose the Agreement to third parties, or standing to challenge the confidentiality provision.

After the United States' response, **Exhibit C**, this Court entered its Order, **Exhibit B**, agreeing with the United States' position and maintaining the confidentiality of the NPA in accordance with its prior Order, **Exhibit A**. The "victims" who were provided a copy of the NPA were and are required to maintain the NPA's confidentiality and not disclose the terms to third parties.

3. Other parties in the consolidated cases have been able to file their responses without a similar request being made. Defendant believes that these Plaintiffs can fully respond without the need to file under seal; and reference provisions generally. However if the Court is

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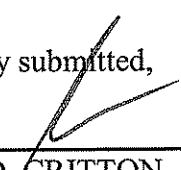
inclined to grant this Order, then in order to continue to protect the confidentiality of the NPA and to comply with the Court's prior Orders, **Exhibit A** and **Exhibit B**, Defendant would agree to allow Plaintiff to file under seal her response and reference only those portions (identified herein) of the NPA which are potentially relevant to the issues arising under claims brought pursuant to 18 U.S.C. §2255 and thus, that may have impact on Defendant's motion for stay and Plaintiff's response thereto. Specifically, the only portions relevant for this Court to make a decision on Defendant's motion and Plaintiffs' response are paragraphs 7, 8, 9, and 10 of the NPA, and paragraphs 7A, 7B, and 7C of the Addendum To The NPA.

WHEREFORE, Defendant requests that this Court enter an Order denying any attempts by Plaintiffs to unseal or make public or to disclose to third parties the terms of the NPA, and to deny Plaintiffs move to file their response under seal; or if the Court is inclined to grant the motion, to allow Plaintiff to file her response to the motion to stay and only the specified portions of the NPA and Addendum thereto under seal.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the following Service List in the manner specified by CM/ECF on this 10th day of June, 2009

Respectfully submitted,

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