

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

troutman.com



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

June 18, 2020

VIA ELECTRONIC COURT FILING

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

Re: Jane Doe, 1:19-cv-8673 (KPF) (DCF)

Dear Judge Freeman:

We represent Defendants Darren K. Indyke and Richard D. Kahn, Co-Executors of the Estate of Jeffrey E. Epstein (together, the “Co-Executors”), in the above-referenced action. We write pursuant to Your Honor’s Individual Rule 2(A) and Local Rule 37.2 to request a conference in anticipation of filing a motion to compel Plaintiff to produce the following documents and information:

1. in accordance with Fed. R. Civ. P. 26(a)(1)(A)(iii) and the Co-Executors’ interrogatories, a computation of the damages she seeks to recover in this action supported by documents, including an analysis supplying the underlying calculations or formulas used in arriving at the damages claimed. See, e.g., *Design Strategy, Inc. v. Davis*, 469 F.3d 284, 295 (2d Cir. 2006) (quoting Rule 26);
2. communications concerning Jeffrey Epstein (“Decedent” or “Mr. Epstein”) which are to, from, or copy members of the press, media, or publishing industry;
3. documents concerning Mr. Epstein which are to, from, or copy other plaintiffs (or their attorneys) who have asserted claims against Mr. Epstein, his Estate, or the Co-Executors;
4. documents concerning all medical procedures and consultations Plaintiff received during the relevant time period, and not just those which Plaintiff deems relevant to her claims; and
5. documents concerning specific medical procedures and conditions, regardless of timeframe, and not just those which Plaintiff deems relevant to her claims.

We have corresponded with Plaintiff's counsel multiple times via email, letter and telephonic conference. Regrettably, the parties remain at an impasse on these issues such that the Court's assistance is necessary.

I. Relevant background

In September 2019, Plaintiff filed a four-count complaint alleging Mr. Epstein sexually abused her starting in or around 2002, when Plaintiff was "approximately" fourteen years old, until she turned seventeen years old. (Compl. ¶ 23 (ECF No. 1).) Plaintiff alleges she became financially dependent on Mr. Epstein and dropped out of high school as a result. (*Id.* ¶ 41.) She also claims she suffers from "extreme anxiety and depression, which cause her to experience difficulty falling asleep, difficulty staying asleep (because she often wakes up with nightmares), difficulty eating, rapid heartbeat, and panic attacks." (*Id.* ¶ 56.) According to Plaintiff, "[h]er physical and emotional injuries impact her daily functioning." (*Id.*) Plaintiff also alleges that she was diagnosed with post-traumatic stress disorder in connection with the alleged abuse and that she "regularly experiences the symptoms of PTSD, including flashbacks to [Mr. Epstein's] house." (*Id.* ¶ 57.) She further alleges that she "struggles to be physically and emotionally intimate with her husband." (*Id.* ¶ 58.) Her complaint requests actual, compensatory, statutory, consequential, and punitive damages, plus pre-judgment and post-judgment interest. (*Id.* at 16.)

A. Plaintiff's initial disclosures

On February 5, 2020, Plaintiff served her Rule 26(a)(1) initial disclosures. However, Plaintiff's disclosure concerning her damages calculations was deficient: she did not provide a computation of each category of damages she seeks, nor did she identify any documents on which she bases her computations. Instead, she stated simply that she was "entitled to recover damages in the form of, *inter alia*, actual damages, compensatory damages, statutory damages, consequential damages, punitive damages, attorneys' fees, costs, and interest."¹ By way of justification for her inadequate disclosure, Plaintiff stated that she "anticipate[d] that damages calculations will depend upon expert analyses and testimony to be developed and disclosed according to the schedule set by the Federal Rules of Civil Procedure and the Court."

B. Plaintiff's written discovery responses

On March 10, 2020, the Co-Executors served their First Request for Production of Documents ("Requests") and First Set of Interrogatories ("Interrogatories") to Plaintiff.² Relevant here are the following Requests:

- **Request No. 1:** All documents and communications with or otherwise concerning Decedent. This includes, without limitation, all communications concerning Decedent which are to, from, or which copy: (i) members of the press, media or publishing industry; (ii) law enforcement personnel; (iii) government agents, including, without limitation, prosecutors and government attorneys; and communications which are to,

¹ A copy of Plaintiff's initial disclosures is attached hereto as **Exhibit A**.

² A copy of these discovery requests is attached hereto as **Exhibit B**.

from, or which copy you or your attorneys, on the one hand, and other persons who have filed lawsuits or made claims against Decedent or his estate, or such other persons' attorneys, on the other hand.

- **Request No. 2:** To the extent not otherwise produced in response to the foregoing, all documents and communications concerning any other legal proceeding or investigation that concerns Decedent.
- **Request No. 13:** All documents and communications concerning all medical procedures and consultations you received during the relevant time period.³
- **Request No. 14:** Regardless of date and the relation (or lack thereof) to Decedent's acts and omissions alleged in the Complaint or otherwise, all documents and communications concerning all medical procedures and consultations you received evidencing or otherwise concerning the following conditions: (a) an eating disorder, (b) emotional distress, (c) psychological or psychiatric trauma, (d) mental anguish, (e) humiliation, (f) confusion, (g) embarrassment, (h) loss of self-esteem, (i) loss of dignity, (j) loss of enjoyment of life, (k) pain, (l) suffering, or (m) any condition that would require surgery to correct.

Also of relevance here are the following Interrogatories:

- **Interrogatory No. 2:** Identify and describe the computation of each category of damages for which you seek recovery in this litigation.
- **Interrogatory No. 10:** Identify all medical procedures and consultations you received, including the dates of each procedure and consultation, the locations of each procedure and consultation, and the identities of all medical providers who conducted or otherwise participated in each procedure and consultation. The relevant time period for this interrogatory is the date on which you first learned of Decedent through the date of your responses to these interrogatories.
- **Interrogatory No. 11:** Regardless of date and the relation (or lack thereof) to Decedent's acts and omissions alleged in the Complaint or otherwise, identify all medical procedures and consultations you received evidencing or otherwise concerning the following conditions: (a) an eating disorder, (b) emotional distress, (c) psychological or psychiatric trauma, (d) mental anguish, (e) humiliation, (f) confusion, (g) embarrassment, (h) loss of self-esteem, (i) loss of dignity, (j) loss of enjoyment of life, (k) pain, (l) suffering, or (m) any condition that would require surgery to correct.

³ The relevant time period is defined as: "the date on which [Plaintiff] first learned of Decedent through the date of [her] responses to these requests."

On April 16, 2020, Plaintiff served her responses to these Requests and Interrogatories.⁴ Since that time, the parties have exchanged several deficiency letters and emails, and engaged in multiple telephonic meet-and-confer discussions. Despite these attempts to resolve the parties' differences, Plaintiff refuses to provide:

- communications concerning Mr. Epstein sent to, from, or copying the press, media and publishing industry, in response to **Request Nos. 1 and 2**;
- documents and communications concerning Mr. Epstein sent to, from, or copying other persons (or their attorneys) who have filed lawsuits or asserted other claims against Mr. Epstein or his Estate, in response to **Request Nos. 1 and 2**;
- a list of all medical procedures and consultations Plaintiff received during the relevant time period and all documents and communications concerning these procedures and consultations, in response to **Interrogatory No. 10** and **Request No. 13**;
- a list of all medical procedures and consultations Plaintiff received concerning specific medical procedures and consultations relating to emotional trauma and anxiety and all documents and communications concerning these procedures and consultations, in response to **Interrogatory No. 11** and **Request No. 14**; and
- a computation of each category of damages for which she seeks recovery in this litigation in response to **Interrogatory No. 2** (and as required under Fed. R. Civ. P. 26).

Plaintiff's failure to provide such information and documents is improper, as explained below.

II. Argument

A. Plaintiff's damages disclosure leaves the Co-Executors in the dark.

Plaintiff's 26(a)(1)(A)(iii) initial disclosure regarding her computation of damages, and her response to Interrogatory No. 2, which essentially requests the same information, are inadequate. Instead of providing the required computation of each category of damages and the documents on which she bases each computation, Plaintiff simply rattled off a laundry list of generic categories of damages, which, according to her, is not even exhaustive. In essence, the "disclosure" was anything but, as it disclosed nothing meaningful, which is contrary to the purpose of Rule 26.

Plaintiff must amend her initial disclosures, and to the extent applicable, her response to Interrogatory No. 2, to provide "a 'computation,' supported by documents," including an analysis supplying the underlying calculations or formulas used in arriving at the damages claimed. See *Design Strategy, Inc.*, 469 F.3d at 295 (quoting Rule 26); *Max Impact, LLC v. Sherwood Grp., Inc.*, 2014 WL 902649, at *6 (S.D.N.Y. Mar. 7, 2014) ("initial disclosures were wholly inadequate

⁴ A true and correct copy of Plaintiff's responses to the Requests and Interrogatories is attached hereto as **Exhibit C**.

because they merely provided [the other party] with total dollar figures for each category of damages and were unaccompanied by any analysis whatsoever" and "failed to provide a calculation or formula through which the figures were derived"); *Ritchie Risk-Linked Strategies Trading (Ir.), Ltd. v. Coventry First LLC*, 280 F.R.D. 147, 159 (S.D.N.Y. 2012) (Rule 26 "does not merely require a plaintiff to describe its damages in general terms, such as 'compensatory,' but — as best as the party is able at an early stage in the case — to provide a 'computation' of each category of damages, and to produce the documents on which that computation is based.").

Plaintiff claims that, because she has apparently hired an expert on this topic, she is relieved from having to provide to the Co-Executors a computation of damages or documents on which those calculations are based. Plaintiff is wrong. There is no "exception to Rule 26(a)(1) in cases in which damages will be proved by experts: the disclosing party still has the responsibility to provide each category of required disclosures based on the information it has at the time, and to supplement those disclosures as more information is gained." *U.S. Bank Nat. Ass'n v. PHL Variable Ins. Co.*, No. 12 CIV. 6811 CM JCF, 2013 WL 5495542, at *3 (S.D.N.Y. Oct. 3, 2013) (citing *Stemrich v. Zabiyaka*, No. 1:12-CV-1409, 2013 WL 4080310, at *3 (M.D. Pa. Aug. 13, 2013) (stating that Rule 26 "explicitly contemplates a procedure" by which initial damages information is supplemented following an expert's review); *Allstate Ins. Co. v. Nassiri*, No. 2:08-cv-369, 2010 WL 5248111, at *4 (D. Nev. Dec. 16, 2010) ("While the precise method of calculation need not be disclosed if it is properly the subject of future expert testimony, this does not relieve the plaintiff from providing reasonably available information concerning its damages computation."); *Hesco Parts, LLC v. Ford Motor Co.*, No. 3:02-CV-736-S, 2007 WL 2407255, at *2 (W.D. Ky. Aug. 20, 2007) ("[A]lthough the defendants are not entitled to early disclosure of the plaintiff's expert report, the plaintiff's initial disclosures should provide its executives' assessment of damages in light of the information available to them in sufficient detail so as to inform the defendants of the contours of their potential exposure.")).

Thus, regardless of whether Plaintiff plans to seek expert analysis in forming a final damages calculation, she must still provide "an estimate of damages and 'some analysis'" "based on the information [Plaintiff] has at the time." *Id.* at 3, 5. Given Plaintiff's recent refusal to consent to a short extension of discovery deadlines, it is inconceivable that she does not have this information already.

B. Plaintiff's responses to Request Nos. 1, 2, 13 and 14 and Interrogatory Nos. 2, 10 and 11 are inadequate and must be amended.

i. Communications with the press, media and publishing industry about Mr. Epstein exist and are highly relevant; there is no basis for Plaintiff's refusal to produce them.

The Co-Executors' Request Nos. 1 and 2 seek communications concerning Mr. Epstein between Plaintiff or her counsel on the one hand and members of the press, media or publishing industry on the other hand. Plaintiff refuses to produce such documents based solely on her "best recollections"⁵ that no such documents exist. When the Co-Executors reminded

⁵ See the June 5, 2020 letter from Ms. Kaplan attached hereto as **Exhibit D**.

Plaintiff that her lead counsel, Roberta Kaplan, was recently interviewed by Arielle Levy and appeared on a September 5, 2019 episode of a podcast called *Broken*, in which Ms. Kaplan discussed Plaintiff, Mr. Epstein and his Estate, the Co-Executors, Plaintiff's alleged injuries and damages, and Plaintiff's intention to file a civil suit against the Estate, Plaintiff responded that those topics are not relevant because they are not about "***Plaintiff's specific allegations.***"⁶ (Emphasis in original). Plaintiff's position is both nonsensical and inappropriate.

First, Request Nos. 1 and 2 are not limited to documents concerning only Plaintiff's "specific allegations." These Requests seek documents concerning Mr. Epstein, which are wholly proper, as they are relevant to the claims ***and defenses*** in this case. Plaintiff is not permitted to withhold documents unless they (as she determines) relate to the "specific allegations" in this case. Additionally, Plaintiff's notions about what relates to her "specific allegations" is tremendously narrow. An interview in which Plaintiff's counsel discusses, among other things, Plaintiff's injuries and damages and Mr. Epstein's Estate cannot legitimately be characterized as not relating to Plaintiff's "specific allegations." Plaintiff's semantics are no justification for denying the Co-Executors their fundamental right to obtain fulsome discovery, especially given Plaintiff's request for various significant damages (which she has yet to properly disclose).

Second, Plaintiff is not entitled to rest on her counsel's "best recollections" to determine whether responsive documents exist. This is especially so when Plaintiff's counsel was interviewed just a few months ago about Mr. Epstein.

In summary, Plaintiff must search and review documents her possession, custody or control, including in her counsel's possession, in accordance with her obligations under the Federal Rules of Civil Procedure. Plaintiff must amend her responses to Request Nos. 1 and 2 and produce all non-privileged documents in response thereto.

ii. Communications with counsel and other plaintiffs with claims against the Co-Executors are discoverable and highly relevant.

In Request Nos. 1 and 2, the Co-Executors requested documents and communications concerning Mr. Epstein between Plaintiff or her counsel, on the one hand, and other persons who have filed lawsuits or made claims against Mr. Epstein or his Estate, or such other persons' attorneys, on the other hand. Plaintiff claims all such documents or communications are protected by the work product doctrine and common interest privilege. Plaintiff is wrong.

As an initial matter, Plaintiff bears the burden of proof to establish these claimed privileges. See *Campinas Found. v. Simoni*, 2004 U.S. Dist. LEXIS 23580, at *8 (S.D.N.Y. Nov. 18, 2004) ("[T]he burden is upon the plaintiff, as the party invoking the protection of the common interest privilege, to establish the facts upon which the claimed privilege is based."). Plaintiff cannot meet her burden.

⁶ *Id.*

"The 'common interest' rule is a limited exception to the general rule that the attorney-client privilege is waived when a protected communication is disclosed to a third party outside the attorney-client relationship." *Shamis v. Ambassador Factors Corp.*, 34 F. Supp. 2d 879, 893 (S.D.N.Y. 1999). "The 'common interest' doctrine typically applies where multiple persons are represented by the same party — 'join representation' — and accordingly both clients are working together with a single attorney toward a common goal." *Id.* (citing *Int'l Ins. Co. v. Newmont Mining Corp.*, 800 F. Supp. 1195, 1196 (S.D.N.Y. 1992)). "[T]he key consideration is that the nature of the interest be ***identical***, not similar, and be legal, not solely commercial." *Campinas Found.*, 2004 U.S. Dist. LEXIS 23580, at *6 (emphasis added) (citing *Bank Brussels Lambert v. Credit Lyonnais (Suisse) S.A.*, 160 F.R.D. 437, 447 (S.D.N.Y. 1995)). Notably, "[s]haring a desire to succeed in an action does not create a 'common interest.'" *Id.* (citing *Shamis*, 34 F. Supp. 2d at 893). "What is important is not whether the parties theoretically share similar interests but rather whether they demonstrate actual cooperation toward a common legal goal." *Id.*

Shamis is instructive here. In that action, the Southern District of New York held the doctrine did not apply, explaining:

Although Shamis and BankBoston would both benefit from a judgment in favor of the plaintiff, they do not share identical legal interests. ... Shamis has not produced any agreement between plaintiff and his counsel and BankBoston establishing a joint prosecution of plaintiff's claims. There is no evidence of a coordinated legal strategy between Shamis and BankBoston. BankBoston is not, and has never been a party to this action. BankBoston has not exercised control over the conduct of this action, nor has it contributed to Shamis' legal expenses. See *North River Ins. Co.*, 1995 WL 5792 at *5 ("common interest" doctrine did not apply because the parties were not represented by same counsel; one party did not contribute to the other's legal expenses, nor exercise control over the conduct of the legal proceedings; and no evidence was presented of a coordinated legal strategy). Accordingly, the BankBoston documents are not privileged, and must be produced.

34 F. Supp. 2d 879, 893.

Similarly, in *Campinas*, which is also instructive here, plaintiff claimed the common interest doctrine protected communications between his counsel and counsel for other plaintiffs with claims against the same defendant that all arose from the same set of facts and circumstances, *i.e.*, the repurchase of certain shares, which allegedly harmed the various plaintiffs. 2004 U.S. Dist. LEXIS 23580, at *5-6. In that action, the court held that the common interest doctrine did not apply, finding that "the interest common to all the pending actions is the desire by diverse litigants to succeed in recovering a sum of money from [defendant]." *Id.* The court found:

the fact that the litigants share a desire to succeed in various civil actions does not mean that an identical legal interest is common to the various actions to which they are parties. Moreover, merely sharing a desire to

succeed in various civil actions does not support the invocation of the common interest privilege to shield from disclosure statements that traditionally would not come within the ambit of the attorney-client privilege.

2004 U.S. Dist. LEXIS 23580, at *7 (citing *Shamis*, 34 F. Supp. 2d 879, 893).

Here, too, while it is theoretically possible (though unlikely given all plaintiffs are seeking recovery from the same limited pot of funds) that Plaintiff may desire for the other plaintiffs with claims against the Co-Executors to succeed in their lawsuits, they do not share identical legal interests for common interest purposes. Put another way, if a plaintiff in another case against the Co-Executors is unsuccessful, it has absolutely no bearing on whether Plaintiff is successful here, and vice-versa. That is because their legal interests are not remotely *identical*.

Nor do the various plaintiffs' claims arise out of the same sets of facts and occurrences. The alleged conduct forming the basis of Plaintiff's claims in this action allegedly occurred in different years and in different states/countries as various other plaintiffs. Nor does Plaintiff allege, for example, that other plaintiffs were present during her alleged abuse.

Further, (i) Plaintiff has not produced any agreement between her counsel and other plaintiffs' counsel establishing a joint prosecution of any claims; (ii) there is no evidence of a coordinated legal strategy between Plaintiff and other plaintiffs; (iii) the other plaintiffs have never been party to this action; and (iv) there is no contention that the other plaintiffs have exercised control over the conduct of this action, nor have they contributed to Plaintiff's legal expenses. See *Shamis*, 34 F. Supp. 2d 879, 893. Simply put, the plaintiffs alleging claims against the Co-Executors in other cases have no legal interest in this case, and vice-versa. The other plaintiffs' various legal rights are not dependent on the outcome of this case. (Further, Plaintiff's counsel previously asked the Southern District to assign this and other actions against the Co-Conspirators to a single judge and marked as "related." (ECF No. 16.) Plaintiff made no mention of her legal interests being identical to the other plaintiffs in that request. (*Id.*) That request was denied. (ECF No. 23.) Likewise, this Court's January 14, 2020 Order (ECF No. 44), stated, "[t]he above referenced cases ... have neither been consolidated for any purpose, nor designated as "related" by the Court.") Accordingly, the common interest doctrine is inapplicable here.

Plaintiff also claims communications with other plaintiffs' counsel are protected by the work product doctrine because they reflect Plaintiff's counsel's mental impressions, conclusions, opinions or legal theories. However, it is not credible that all such communications fall into those categories. Nor has Plaintiff met her burden to show her counsel acted consistent with the work product doctrine in attempting to keep communications with other counsel confidential. See *Spanierman Gallery, Profit Sharing Plan v. Merritt*, No. 00CIV5712LTSTHK, 2003 WL 22909160, at *2, 5 (S.D.N.Y. Dec. 9, 2003) (finding work product doctrine did not apply where the production "was not made under circumstances which would ensure the confidentiality of the material"; the documents provided "were not identified as 'privileged'"; and "no agreement was reached with the [receiving party] to treat the information as privileged.").

Accordingly, Plaintiff must produce these communications. Alternatively, and at minimum, given the critical importance of these communications to the Co-Executors' fundamental right to defend against Plaintiff's claims, it would be appropriate for the Court to review a random sample of such communications *in camera*, to determine whether any privilege applies. See, e.g., *Makhoul v. Watt, Tieder, Hoffar & Fitzgerald, LLP*, No. 11-CV-05108 (PKC) (VMS), 2014 U.S. Dist. LEXIS 32239, at *26-27 (E.D.N.Y. Mar. 12, 2014) (supporting Magistrate Judge Go's decision to review certain documents *in camera* to determine if they were privileged because, "despite Defendants' assertion of privilege, the Court determined that an *in camera* review of the documents was the best way to satisfy Plaintiff and the Court that Defendants did not invoke privilege in order to hide evidence....").

iii. Plaintiff's medical history is critical to the Co-Executors' defenses.

Request Nos. 13 and 14 and Interrogatory Nos. 10 and 11 seek documents and information related to Plaintiff's medical history. Plaintiff's responses to these requests seek to limit her production to only those documents and information that she determines "relate to the allegations of the Complaint." This is improper.

Plaintiff put her physical and mental health squarely at issue in this action by broadly alleging numerous afflictions, lasting over a decade, that she claims are the result of Mr. Epstein's alleged conduct. Specifically, Plaintiff alleges that she suffers from "severe mental anguish" and "anxiety and depression"; "difficulty falling asleep"; "difficulty staying asleep"; nightmares; "difficulty eating, rapid heartbeat, and panic attacks"; has been diagnosed with PTSD, making it "difficult for her to take care of herself and her family"; and "struggles to be physically and emotionally intimate with her husband." (Compl. ¶¶ 56-58.) Information relating to Plaintiff's medical history is therefore critical to the Co-Executors' defense. Whether Plaintiff suffered any medical conditions—particularly the same or similar conditions she now alleges resulted from her interaction with Mr. Epstein—prior to her interactions with him is relevant to the Co-Executors' defenses, including that such conditions directly caused or contributed to Plaintiff's alleged damages for which she now seeks recovery. Moreover, given the breadth of the medical conditions Plaintiff alleges are relevant to her claimed damages, the Co-Executors are entitled to information concerning the entirety of the medical procedures and consultations Plaintiff received after she met Mr. Epstein.

Plaintiff has no right to cherry-pick the medical records she wishes to disclose. "The disclosure provisions in the Federal Rules of Civil Procedure do not permit a party to trim his duty of disclosure to suit [her] own view of what might be relevant to [her] adversary." *Arthur v. Atkinson Freight Lines Corp.*, 164 F.R.D. 19, 20–21 (S.D.N.Y. 1995) (issuing sanctions against plaintiff for failing to produce certain medical records and holding meritless plaintiff's contention that he was "under no duty to turn over some of the undisclosed medical reports and records to his adversary on the ground that he did not view such material to be relevant to the plaintiff's case."); see also *Rodriguez v. Folksamérica Reinsurance Co.*, No. CIV-305-CV-01687-CFDTPS, 2006 WL 1359119, at *3 (D. Conn. May 15, 2006) (ordering plaintiff's counsel to submit statement in writing under oath that the plaintiff never received treatment for emotional distress—"whether the stress was due to the actions alleged in this lawsuit or otherwise.") (emphasis added). Here, the Co-Executors are entitled to Plaintiff's medical history and to have their experts determine which conditions, if any, caused or contributed to Plaintiff's alleged

damages, which she attributes to Mr. Epstein's abuse, regardless of which ones Plaintiff connects to him. Accordingly, Plaintiff must provide all documents and information responsive to these Requests and Interrogatories.

III. Conclusion

For the foregoing reasons, the Co-Executors request that the Court enter a briefing schedule for the Motion to Compel described herein, where the Co-Executors have two weeks to submit their motion, Plaintiff has two weeks therefrom to respond, and the Co-Executors have one week therefrom to reply.

Respectfully submitted,

s/Bennet J. Moskowitz

Bennet J. Moskowitz

cc: Counsel of Record (via ECF)

Exhibit A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JANE DOE,

Plaintiff,

v.

DARREN K. INDYKE and RICHARD D.
KAHN, in their capacities as the executors of
the ESTATE OF JEFFREY E. EPSTEIN,

Defendants.

No. 19-cv-08673 (KPF)

PLAINTIFF'S RULE 26(a)(1) INITIAL DISCLOSURES

Plaintiff, through her undersigned counsel, hereby makes the following initial disclosures pursuant to Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure.

The following information reflects the current knowledge of Plaintiff and her counsel at this stage of the litigation and is subject to the reservation of all privileges and other immunities from discovery, including without limitation Plaintiff's right to assert any and all objections as to competency, relevancy, materiality, privilege, work product, use or admissibility as evidence. Plaintiff continues to investigate matters related to the litigation, may become aware of additional information through discovery or otherwise, may assert additional claims, and may become aware of new reasons why information presently known may be relevant to the claims in this action. Moreover, the issues raised in this matter may require analysis by retained experts. Plaintiff reserves the right to supplement, revise, and/or correct these initial disclosures as appropriate. These disclosures do not purport to identify every document, tangible thing, or witness possibly relevant to all issues that may eventually be raised in this action and are made with the full reservation of rights to supplement, amend, correct or otherwise modify these disclosures, pursuant to Federal Rule of Civil Procedure 26(e) or otherwise, if appropriate as investigation and discovery are conducted. The disclosures set forth

below are organized to correspond to the general categories set forth in Rule 26(a)(1)(A) and are made subject to the above objections and qualifications.

The following are the disclosures required by Federal Rule of Civil Procedure 26(a)(1)(A):

- 1. The name, and if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i) and subject to the reservation of all rights and privileges described above, based on her current knowledge, information, and belief and subject to further investigation, discovery, and analysis by experts, Plaintiff discloses the following names and, if known, the address and telephone numbers of the following persons who are likely to have discoverable information that may be used to support Plaintiff's claims, along with the subjects of that information. Plaintiff reserves the right to amend or supplement this list as discovery proceeds as the identities of additional individuals who are likely to have discoverable information that Plaintiff may use to support her claims becomes known to her.

NAME	CONTACT INFORMATION	SUBJECTS OF INFORMATION
Sarah Kellen	Unknown	The allegations in the Complaint, including that Jeffrey Epstein repeatedly sexually abused Doe in his home between 2001 and 2005.
Lesley Groff	Unknown	The allegations in the Complaint, including that Jeffrey Epstein repeatedly sexually abused Doe in his home between 2001 and 2005.
Dr. Dawn Hughes	c/o Kaplan Hecker & Fink, LLP 350 Fifth Ave, Suite 7110 New York, NY 10118	Jeffrey Epstein's sexual abuse of Plaintiff, including psychological impact of that abuse.

Luisa Santos de Oliveira	(347) 608-4943	Jeffrey Epstein's sexual abuse of Plaintiff.
Assistant U.S. Attorney Alexander Rossmiller, Esq.	U.S. Attorney's Office Southern District of New York One Saint Andrew's Plaza New York, NY 10007 (212) 637-2415	The allegations in the Complaint.
Diarmuid White, Esq.	Unknown	Jeffrey Epstein's retention of Mr. White to represent Plaintiff in connection with a criminal investigation into Epstein's sexual abuse of minors.

Further expert disclosures will be made in accordance with the Court's forthcoming scheduling order and Rule 26(b)(2). Plaintiff reserves the right to use the testimony of other witnesses whose identity may be subsequently learned through discovery or other means.

2. **A copy of, or description by category and location of, all documents, data compilations and tangible things in the possession, custody or control of the party, and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii), based on current knowledge, and subject to further investigation, discovery, and analysis by experts, Plaintiff hereby discloses the following categories of documents and things in her possession, custody or control that she may use to support her claims. Plaintiff reserves the right to amend or supplement these disclosures as provided under Fed. R. Civ. P. 26(e). The following disclosures do not include documents and things that are likely to be offered solely for impeachment:

1. Documents concerning the identity, name, date of birth, age, citizenship and/or residency of Plaintiff.
2. Documents and ESI related to the allegations in the Complaint (ECF No. 1) including, but not limited to photographs, electronic communications, and written recollections.

- 3. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iii), Plaintiff discloses that she is entitled to recover damages in the form of, *inter alia*, actual damages, compensatory damages, statutory damages, consequential damages, punitive damages, attorneys' fees, costs, and interest. Plaintiff anticipates that damages calculations will depend upon expert analyses and testimony to be developed and disclosed according to the schedule set by the Federal Rules of Civil Procedure and the Court. Plaintiff reserves the right to supplement this list with any damages as she continues to investigate the claims in this action. Subject to the foregoing, Plaintiff has certain financial and employment records that may be relevant to damages calculations.

- 4. Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action to indemnify or reimburse for payments made to satisfy the judgment.**

Not applicable.

Respectfully submitted,



Roberta A. Kaplan
Julie E. Fink
Kate L. Doniger
Alexandra K. Conlon
KAPLAN HECKER & FINK, LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
Telephone: (212) 763-0883
rkaplan@kaplanhecker.com
jfink@kaplanhecker.com
kdoniger@kaplanhecker.com
aconlon@kaplanhecker.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2020, I provided copies of the foregoing via email to the following:

Bennet Jerome Moskowitz
Troutman Sanders LLP
875 Third Avenue
New York, NY 10022
(212)-704-6087
Fax: (212)-704-6288
Email: bennet.moskowitz@troutmansanders.com

Counsel for Defendants



Roberta A. Kaplan
KAPLAN HECKER & FINK, LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
Telephone: (212) 763-0883

Counsel for Plaintiff

Exhibit B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JANE DOE,

Plaintiff,

v.

DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as the executors of the Estate of Jeffrey E. Epstein,

Defendants.

Case No. 19 Civ. 8673 (KPF) (DCF)

**PLAINTIFF JANE DOE'S
FIRST SET OF INTERROGATORIES TO DEFENDANTS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Jane Doe hereby requests that Defendants Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein ("Defendants") fully and completely answer in writing each of the following Interrogatories under oath, in accordance with the Definitions and Instructions herein, and serve such answers upon counsel for Plaintiff within thirty (30) days of service of this First Set of Interrogatories to Defendants (the "Interrogatories").

The Definitions and Instructions below form an integral part of the Interrogatories that follow and must be read in conjunction with the Interrogatories and followed when responding to the Interrogatories.

DEFINITIONS

Solely for the purpose of the Interrogatories, the following definitions shall apply, without regard to capitalization:

1. The words and phrases used in these Interrogatories shall have the meanings ascribed to them under the Federal Rules of Civil Procedure. In addition, the terms below have the meanings set forth below whenever used in any Interrogatory.

2. Consistent with Local Civil Rule 26.3(a), the definitions set forth at Local Civil Rule 26.3(c)(1)-(7) of “communication,” “document,” “identify,” “parties,” “person,” and “concerning” are incorporated herein by reference.

3. The “Complaint” means the complaint filed in the above-captioned litigation as ECF No. 1.

4. “Communication” is used in the broadest sense permissible under Federal Rule of Civil Procedure 34(a)(1)(A) and Local Civil Rule 26.3(c)(1) and includes any transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

5. “Defendants” refers to Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein (as defined by Local Civil Rule 26.3(c)(5)), including any other names, nicknames, images, or icons by which they are known.

6. “Describe in Detail” means, in addition to its customary and usual meaning, to provide a complete description and explanation of the facts, circumstances, analysis, opinion and other information relating to the subject matter of a specific Interrogatory.

7. “Epstein” refers to Jeffrey E. Epstein, the decedent whose Estate Defendants are charged with executing, including any other names, nicknames, images or icons by which he was known.

8. The “Estate” means the Estate of Jeffrey E. Epstein.

9. “Includes” and “including” mean “includes but not limited to” and “including but not limited to” respectively.

10. “This litigation” means the above-captioned litigation, *Jane Doe v. Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein*, No. 1:19-cv-08673 (KPF) (DCF) (S.D.N.Y.).

11. “Relating” or “related” means affecting, concerning, constituting, dealing with, describing, embodying, evidencing, identifying, involving, providing a basis for, reflecting, regarding, respecting, stating, or in any manner whatsoever pertaining, in whole or in part, to that subject.

12. “You,” “your,” and “yours” refers to Defendants, as defined above.

INSTRUCTIONS

Solely for the purpose of these Interrogatories, the following instructions shall apply:

1. In addition to the instructions and definitions contained herein, these Interrogatories incorporate the instructions contained in any applicable Federal Rule of Civil Procedure, Local Rule, or Individual Practice of the presiding Judge.

2. Please respond to each Interrogatory separately by setting forth the Interrogatory followed by your response to the Interrogatory. Unless otherwise indicated, no Interrogatory shall be construed to limit the scope of any other Interrogatory.

3. In answering these Interrogatories, please furnish all information in the Estate’s possession or that of Epstein’s current or former agents, representatives, employees, or anyone acting on Epstein’s behalf.

4. If you object to any of these Interrogatories, state with specificity the legal and factual basis for your objection(s). If you object only to a portion of an Interrogatory, identify the specific portion of the Interrogatory to which you object and respond fully to the remainder.

5. If any claim is made that the information requested in these Interrogatories is privileged or constitutes attorney work product such that you will not respond to the Interrogatory, please provide a written statement accompanying your responses, consistent with Rule 26(b)(5) of the Federal Rules of Civil Procedure, describing the factual basis of the purported privilege or claim of work product in sufficient detail to permit the Court to adjudicate the validity of the claim.

6. The obligation to respond to these Interrogatories is a continuing obligation, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure. If, at any time after responding to these Interrogatories, you discover additional information that will make your responses to these Interrogatories more complete or correct, supplement or correct your responses as soon as is reasonably possible.

7. These Interrogatories are without prejudice to, or waiver of, Plaintiff's right to conduct further discovery.

8. In order to bring within the scope of these Interrogatories all documents and information that might otherwise be construed to be outside of their scope, the following rules of construction apply: (i) the masculine, feminine, or neuter pronoun shall not exclude other genders; and (ii) the use of a verb in any tense shall be recognized as the use of that verb in all other tenses. In addition, consistent with Local Civil Rule 26.3(a), the rules of construction set forth at Local Civil Rule 26.3(d)(1)–(3) of the terms “any/all/each,” “and/or,” and of words used to identify number are incorporated herein by reference.

9. For purposes of these Interrogatories, the term “identify” means:

(a) When referring to documents, to state, to the extent known: (i) the type of document; (ii) the title or general subject matter; (iii) the date of the document; and (iv) the authors, addressees, and recipients.

(b) When referring to communications, to state the document or documents (as described in Instruction No. 9(a)) that constitute the communication if the communication was in the form of a document; and if the communication was oral or otherwise not in the form of a document, to state, to the extent known: (i) the time, date, and place of such communication; (ii) whether it was in person or by some other means; (iii) each person who was present at or who participated in such communication; (iv) the substance of such communication; and (v) each document replicating or summarizing such communication.

(c) When referring to a natural person, to state: (i) that individual's full name; (ii) his or her present or last known address; (iii) the present or last known place of his or her employment; (iii) his or her job title or position; and (iv) his or her relationship to Plaintiff. If any of this information is unavailable, provide other available means of identifying such person.

(d) When referring to any business organization or entity, to state: (i) the full name of such organization or entity; (ii) the address of its principal place of business; and (iii) the name of each employee, agent, or representative who acted for such organization or entity with respect to the matters that are relevant to the Interrogatory. If any of this information is unavailable, provide other means of identifying such business organization.

10. To the extent you contend that you lack sufficient information with which to respond fully to any Interrogatory, respond to the extent that you are able and include a written statement describing the missing information and explaining why you are unable to obtain that information.

11. If, in responding to any Interrogatory, any ambiguities in the Interrogatory's wording are encountered, the response shall set forth the matter deemed ambiguous, select a reasonable interpretation that You believe resolves the ambiguity, respond to the Interrogatory using that interpretation, and explain with particularity the construction or interpretation selected by You in responding to the Interrogatory.

INTERROGATORIES

1. Identify all individuals who may have knowledge of any kind relating to Plaintiff's claims in this litigation or the allegations in the Complaint.
2. Identify all personal electronic devices Epstein used and the way in which Epstein used each of them (text, email, social media, etc.) to communicate regarding, or create material related to, the subject matter of this litigation.
3. Identify each and every email account and each email address that Epstein created and used to communicate regarding, or create material related to, the subject matter of this litigation.
4. Identify all individuals who worked for any period of time at Epstein's mansion at 9 East 71st Street, New York, NY between 2001 and 2005.
5. Identify all individuals who hired, solicited, sought out, or otherwise contacted women on Epstein's behalf between 2001 and 2005.
6. Identify all of Epstein's current or former agents, employees, or anyone acting on Epstein's behalf who had contact with Plaintiff and describe in detail the contact with Plaintiff including when, where, and how each contact took place, and the nature of the contact.
7. Identify all payments made by Epstein or his current or former agents, employees, or anyone acting on Epstein's behalf to Plaintiff and describe in detail the date, amount, and reason for each payment.

8. Identify all phone numbers that Epstein or his current or former agents, employees, or anyone acting on Epstein's behalf used to communicate with Plaintiff.

9. Identify all attorneys Epstein retained for Plaintiff, including in connection with Plaintiff's receipt of a Grand Jury subpoena in 2008.

10. Identify the beneficiaries of Epstein's Estate, including the "1953 Trust."

Dated: New York, New York
March 10, 2020

By:



Roberta A. Kaplan
Kate L. Doniger
Alexandra Conlon
Kyla Magun
Louis W. Fisher
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
(212) 763-0883
rkaplan@kaplanhecker.com
kdoniger@kaplanhecker.com
aconlon@kaplanhecker.com
kmagun@kaplanhecker.com
lfisher@kaplanhecker.com

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JANE DOE,

Plaintiff,

v.

DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as the executors of the Estate of Jeffrey E. Epstein,

Defendants.

Case No. 19 Civ. 8673 (KPF) (DCF)

**PLAINTIFF JANE DOE'S
FIRST REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Civil Rules 26.2 and 26.3 of the Local Rules of the United States District Courts for the Southern and Eastern District of New York, Plaintiff Jane Doe hereby requests that Defendants Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein (“Defendants”) produce the following documents at the offices of Kaplan Hecker & Fink LLP, 350 Fifth Avenue, Suite 7110, New York, NY 10118, within thirty (30) days of service of these First Requests for the Production of Documents (the “Requests”).

The Definitions and Instructions below form an integral part of the Requests that follow and must be read in conjunction with the Requests and followed when responding to the Requests.

DEFINITIONS

Solely for the purpose of the Requests, the following definitions shall apply, without regard to capitalization:

1. The words and phrases used in these Requests shall have the meanings ascribed to them under the Federal Rules of Civil Procedure. In addition, the terms below have the meanings set forth below whenever used in any Request.

2. Consistent with Local Civil Rule 26.3(a), the definitions set forth at Local Civil Rule 26.3(c)(1)-(7) of “communication,” “document,” “identify,” “parties,” “person,” and “concerning” are incorporated herein by reference.

3. The “Complaint” means the complaint filed in the above-captioned litigation as ECF No. 1.

4. “Communication” is used in the broadest sense permissible under Federal Rule of Civil Procedure 34(a)(l)(A) and Local Civil Rule 26.3(c)(1) and includes any transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

5. “Defendants” refers to Darren K. Indyke and Richard D. Kahn, in their capacities as the Executors of the Estate of Jeffrey E. Epstein (as defined by Local Civil Rule 26.3(c)(5)), including any other names, nicknames, images, or icons by which they are known.

6. “Document” is defined as set forth in Local Civil Rule 26.3(c)(2) and is synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Rule 34(a)(l)(A) of the Federal Rules of Civil Procedure. A draft or non-identical copy is a separate document within the meaning of this term.

7. “Includes” and “including” mean “includes but not limited to” and “including but not limited to” respectively.

8. “This litigation” means the above-captioned litigation, *Jane Doe v. Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein*, No. 1:19-cv-08673 (KPF) (DCF) (S.D.N.Y.).

9. "Person" is used in the broadest sense permissible under Local Civil Rule 26.3(c)(6) and includes any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

10. "Plaintiff" refers to Plaintiff Jane Doe (as defined by Local Civil Rule 26.3(c)(5)), including any other names, nicknames, images, or icons by which she is known.

11. "Epstein" refers to Jeffrey E. Epstein, the decedent whose estate Defendants are charged with executing, including any other names, nicknames, images or icons by which he was known.

12. "Relating" or "related" means affecting, concerning, constituting, dealing with, describing, embodying, evidencing, identifying, involving, providing a basis for, reflecting, regarding, respecting, stating, or in any manner whatsoever pertaining, in whole or in part, to that subject.

13. "You," "Your," or "Yours" refers to Defendants, as defined above.

INSTRUCTIONS

Solely for the purpose of the Requests, the following instructions shall apply:

1. The documents called for by these Requests are documents in Your possession, custody, or control, or the possession, custody, or control of anyone acting on your behalf.

2. Your responses to these Requests shall be based on all knowledge and information in Epstein's possession, custody, or control or that of Epstein's current or former agents, representatives, employees, or anyone acting on Epstein's behalf and should be provided irrespective of the Federal Rules of Evidence.

3. The singular includes the plural and vice versa, except as the context may otherwise require; any Request propounded in the present tense shall also be read as if propounded in the

past tense and vice versa; whenever a term is used herein in the present, past, future, subjunctive, or other tense, voice, or mood, it shall also be construed to include all other tenses, voices, or moods; reference to any gender includes all genders; the words “any” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the Request all responses that might otherwise be construed to be outside its scope; the terms “all,” “any,” and “each” shall each be construed as encompassing “any” and “all”; the word “including” means “including but not limited to.”

4. These Requests seek production of all documents, in their entirety, along with any attachments, drafts, and non-identical copies. A document with handwritten, typewritten, or other recorded notes, editing marks, etc., is not and shall not be deemed identical to one without such modifications, additions, or deletions.

5. Responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure, including producing the requested documents as they are kept in the usual course of business or organized and labeled to correspond to the categories in the Requests, and in accordance with any order entered by the Court concerning the production of discovery materials.

6. To the extent that responsive documents are located on a Social Media platform, Defendants should produce the documents directly from the platform.

7. Questions regarding the interpretation of these Requests should be resolved in favor of the broadest possible construction. Any ambiguity in a Request shall be construed to bring within the scope of the Request all documents that otherwise could be construed to be outside of its scope. If, in responding to any of these Requests, You encounter any ambiguity or confusion in construing either a Request or a Definition or Instruction relevant to a Request, set forth the

matter deemed ambiguous, select a reasonable interpretation that You believe resolves the ambiguity, respond to the Request using that interpretation, and explain with particularity the construction or interpretation selected by You in responding to the Request.

8. If You object to the production of a document in relation to a specific Request, state with particularity the legal and factual basis for your objection(s) with respect to such Request. You should respond to all portions of that Request that do not fall within the scope of Your objection. If You object to a Request on the ground that it is overly broad, provide such documents that are within the scope of production that You believe is appropriate. If You object to a Request on the ground that to provide responsive documents would constitute an undue burden, provide such responsive documents as You believe can be supplied without undertaking an undue burden.

9. Consistent with Local Civil Rule 26.2, to the extent You believe any Request does request a document that could be withheld on the basis of attorney-client privilege, work product doctrine, or any other right of non-disclosure, furnish a list identifying the documents or information for which the protection is claimed together with the following: (i) the type of document (*e.g.*, letter or memorandum); (ii) the general subject matter of the document; (iii) the date of the document; (iv) the author of the document, the addressees of the document, and any other recipients, and, where not apparent, the relationship of the author, addressees, and recipients to each other; and (v) the nature of the privilege that is being claimed. To the extent a requested document contains non-privileged information, the privileged information shall be redacted from the same and the redacted version of the document or thing produced.

10. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document should

be exempted from any scheduled destruction and should not be destroyed until the conclusion of this action or unless otherwise permitted by the Court.

11. These Requests are continuing in nature. If, after producing the requested documents, You obtain or become aware of any further documents responsive to these Requests or if additional information You or any persons acting on Your behalf obtain would augment, clarify, or otherwise modify Your responses, You are required to supplement Your responses and produce such additional documents pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

12. These Requests are without prejudice to, or waiver of, Plaintiff's right to conduct further discovery.

13. Unless otherwise indicated, the Requests seek documents generated, created, received, or distributed on or after January 1, 2000.

DOCUMENT REQUESTS

1. All documents and communications relating to Plaintiff's claims in this lawsuit or any of the allegations in the Complaint.

2. All documents relating to Plaintiff.

3. All communications relating to Plaintiff, including all communications involving Epstein and/or his current or former agents, employees, or anyone acting on his behalf.

4. All communications with Plaintiff, including all communications between Epstein or his current or former agents, employees, or anyone acting on Epstein's behalf and Plaintiff.

5. All photographs, video recordings, audio recordings, or other images or recordings of Plaintiff.

6. All statements made by Epstein about Plaintiff, and any documents or communications relating to such statements.

7. All documents containing Plaintiff's address or telephone number, including any address book or list of contacts maintained by Epstein or his current or former agents, employees, or anyone acting on Epstein's behalf.

8. Documents sufficient to show any phone numbers used by Epstein or his current or former agents, representatives, employees, investigators, attorneys, or anyone acting on Epstein's behalf to contact Plaintiff.

9. All documents and communications reflecting any appointments, meetings, visits, phone calls or other communications or in-person contact between Epstein and Plaintiff, including Epstein's calendar and datebook.

10. All documents and communications relating to any payments made to Plaintiff by Epstein or his current or former agents, representatives, employees, investigators, attorneys, or anyone acting on Epstein's behalf.

11. All documents and communications relating to any gifts or other purchases made by Epstein or any of his current or former agents, representatives, employees, investigators, attorneys, or anyone acting on Epstein's behalf for Plaintiff, including documents and communications relating to a furniture delivery to Plaintiff's apartment in Astoria, Queens.

12. All documents and communications relating to Plaintiff and the State of Florida's and the United States Attorney's Office for the Southern District of Florida's investigations into Epstein, including communications with the authorities and documents and communications relating to Epstein's retention of attorneys to represent Plaintiff.

13. All documents and communications relating to Epstein's retention of attorneys to represent Plaintiff in any matter.

14. All documents and communications relating to "Minor Victim 1" in the indictment

issued by the United States Attorney's Office for the Southern District of New York against Epstein in July 2019.

15. All documents and communications relating to Epstein's decision to amend his will on August 8, 2019, including Epstein's prior wills.

16. All documents and communications not produced in response to any other Request(s) that Defendants intend to, or do, identify, use, reference, or rely upon in answering any interrogatory, in any deposition, in preparing any motion or other filing, and at any Court conference, hearing, or trial in this case.

17. All documents and communications not produced in response to any other Request(s) concerning any facts, circumstances, or allegations set forth in the Complaint.

Dated: New York, New York
March 10, 2020

By:



Roberta A. Kaplan
Kate L. Doniger
Alexandra Conlon
Kyla Magun
Louis W. Fisher
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
(212) 763-0883
rkaplan@kaplanhecker.com
kdoniger@kaplanhecker.com
aconlon@kaplanhecker.com
kmagun@kaplanhecker.com
lfisher@kaplanhecker.com

Exhibit C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JANE DOE,

Plaintiff,

v.

DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as the executors of the Estate of Jeffrey E. Epstein,

Defendants.

Case No. 19 Civ. 8673 (KPF) (DCF)

PLAINTIFF JANE DOE'S RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Rules for the Southern District of New York (together, the "Rules"), Plaintiff Jane Doe, by and through her attorneys, submits these responses and objections ("Responses") to Defendants Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein ("Defendants") First Request for the Production of Documents dated March 10, 2020.

The Definitions and Instructions below form an integral part of the Requests that follow and must be read in conjunction with the Requests and followed when responding to the Requests.

GENERAL OBJECTIONS AND RESPONSES

The following general objections and responses (the "General Objections") are incorporated into each specific objection and response (the "Specific Objections") as if fully set forth therein:

1. Plaintiff objects to the Requests to the extent they are duplicative, cumulative, or seek information that has been or will be provided through other means of discovery.

2. Plaintiff objects to the Requests to the extent they are vague, ambiguous, overly broad, unduly burdensome, seek information not relevant to the claims or defenses of any party, or are not proportional to the needs of the case.

3. Plaintiff objects to the Requests to the extent they impose any obligations or requirements beyond the scope of the Rules or any case law interpreting them.

4. Plaintiff's Responses are not intended to be and shall not be construed as an agreement or concurrence that all information provided is admissible.

5. Plaintiff objects to each Request to the extent that it calls for documents that: (a) are already in Defendants' possession, custody, or control; (b) are publicly available; or (c) are otherwise independently available to Defendants or their counsel.

6. Plaintiff objects to the Requests to the extent they purport to call for documents or information that: (a) are subject to the attorney-client privilege; (b) constitute attorney work product; (c) are protected from disclosure based on common interest or a similar privilege; or (d) are otherwise protected from disclosure under applicable privilege, law, or rule. Plaintiff will not produce such information in response to the Requests, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such information.

7. Plaintiff objects to the Requests to the extent they seek information protected by federal or state law. Except to the extent permitted by an applicable exception or court order, Plaintiff will not disclose any information in violation of federal or state law.

8. Plaintiff objects to the Requests to the extent they require unreasonable measures to locate and produce responsive documents. Plaintiff will construe the Requests to require a reasonable and diligent search of her reasonably-accessible files where she would reasonably expect to find information, documents, or things related to the Requests, and specifically states

that she will limit her search for electronically stored information by use of identified search terms to be agreed upon by the Parties.

9. Plaintiff objects to the Requests, and in particular, Definitions No. 4 and Instructions Nos. 2 and 4, to the extent that they seek information or documents that are not within Plaintiff's possession, custody, or control. Subject to this General Objection, in responding to the Requests, Plaintiff will provide only responsive, non-privileged documents within Plaintiff's own possession, custody, or control.

10. Plaintiff objects to Instruction No. 3 insofar as it seeks to impose obligations greater than those imposed by the Rules or any other applicable law or rule.

11. Plaintiff objects to Instruction No. 4 insofar as it imposes obligations greater than those imposed by the Rules and it seeks information or documents that are not within Plaintiff's possession, custody, or control.

12. Plaintiff objects to Instruction No. 11 to the extent that it seeks information or documents beyond the time period relevant to the allegations listed in the Complaint (ECF 1).

13. Plaintiff objects to each Request to the extent that it asks Plaintiff to identify "all" documents, communications, information etc., on the ground that each such Request is overly broad and that compliance with each such Request would be unduly burdensome and not proportional to the needs of this case.

14. Plaintiff objects to each Request to the extent that it seeks information or documents beyond the time period relevant to Plaintiff's claims.

15. Plaintiff objects to the Requests to the extent they contain express or implied assumptions of fact or law with respect to matters at issue in this case. Plaintiff's Responses to the Requests are not intended to be and shall not be construed as an agreement or concurrence with

Defendants' characterization of any facts, circumstances, or legal obligations. Plaintiff reserves the right to contest any such characterization as inaccurate.

16. Plaintiff expressly reserves all rights and privileges under the Rules and any other applicable law or rule. The failure to assert such rights and privileges or the inadvertent disclosure by Plaintiff of information or documents protected by such rights or privileges shall not constitute a waiver thereof, either with respect to these Responses or with respect to any future discovery objections or responses.

17. The fact that Plaintiff has responded to a particular Request shall not be interpreted as implying that Plaintiff acknowledges the propriety of that Request.

18. Plaintiff's Responses to the Requests are made to the best of Plaintiff's present knowledge, information, and belief. These Responses are at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of Plaintiff's knowledge and investigation, are subject to such additional knowledge of facts as may result from Plaintiff's further discovery or investigation.

19. Plaintiff reserves the right to make any use of, or to introduce at any hearing and at trial, information responsive to the Requests but discovered subsequent to the date of these Responses, including, but not limited to, any such information obtained in discovery herein.

20. Plaintiff reserves all objections or other questions as to the competency, relevance, materiality, privilege, or admissibility of Plaintiff's Responses herein and any documents produced subject thereto, as evidence in any subsequent proceeding in, or trial of, this or any other action, or for any other purpose whatsoever.

21. Plaintiff's Responses to the Requests will be subject to the protections of any Protective Order entered by the Court governing the handling of confidential material in this case.

22. Plaintiff will produce responsive documents pursuant to its General and Specific Objections on a rolling basis.

23. Plaintiff is available to meet and confer with Defendants in an effort to resolve any disputes that may arise concerning these Responses.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 1

All documents and communications with or otherwise concerning Decedent. This includes, without limitation, all communications concerning Decedent which are to, from, or which copy: (i) members of the press, media or publishing industry; (ii) law enforcement personnel; (iii) government agents, including, without limitation, prosecutors and government attorneys; and communications which are to, from, or which copy you or your attorneys, on the one hand, and other persons who have filed lawsuits or made claims against Decedent or his estate, or such other persons' attorneys, on the other hand.

RESPONSE TO REQUEST NO. 1

Plaintiff objects to Request No. 1 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses in this litigation, and will withhold responsive documents and communications, if any, based on this objection. Plaintiff further objects to Request No. 1 to the extent it calls for the production of documents and communications that are subject to the attorney-client privilege, constitute attorney work product, or are otherwise protected from disclosure under applicable privilege, law, or rule, and will withhold responsive documents and communications, if any, based on this objection.

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning the claims and defenses in this litigation and responsive to this request, if any.

REQUEST NO. 2

To the extent not otherwise produced in response to the foregoing, all documents and communications concerning any other legal proceeding or investigation that concerns Decedent.

RESPONSE TO REQUEST NO. 2

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications that are responsive to this request, if any.

REQUEST NO. 3

To the extent not otherwise produced in response to the foregoing, all non-privileged documents and communications concerning this litigation.

RESPONSE TO REQUEST NO. 3

Plaintiff objects to Request No. 3 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses to the extent that "concerning this litigation" has a meaning other than "concerning the claims and defenses in this litigation" and will withhold responsive documents and communications, if any, based on this objection.

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning the claims and defenses at issue in this litigation, if any.

REQUEST NO. 4

A copy of your birth certificate.

RESPONSE TO REQUEST NO. 4

Plaintiff objects to Request No. 4 on the ground that it seeks information not relevant to either party's claims or defenses, and will withhold responsive documents and communications, if any, based on this objection.

REQUEST NO. 5

Copies of all of your passports.

RESPONSE TO REQUEST NO. 5

Plaintiff objects to Request No. 5 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses to the extent it requests all Plaintiff's passports, and will withhold responsive documents and communications, if any, based on this objection.

Subject to the General and Specific Objections, Plaintiff will produce a copy of her current passport, if any.

REQUEST NO. 6

Documents sufficient to establish your place of residency at all times during the relevant time period.

RESPONSE TO REQUEST NO. 6

Plaintiff objects to Request No. 6 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to establish."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents, if any, that demonstrate Plaintiff's residency (1) during the period relevant to the allegations in the Complaint and (2) at present.

REQUEST NO. 7

Documents sufficient to establish your domicile at all times during the relevant time period.

RESPONSE TO REQUEST NO. 7

Plaintiff objects to Request No. 7 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to establish."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents, if any, that demonstrate Plaintiff's domicile (1) during the period relevant to the allegations in the Complaint and (2) at present.

REQUEST NO. 8

Documents sufficient to identify the location, nature, and scope of your employment during the relevant time period.

RESPONSE TO REQUEST NO. 8

Plaintiff objects to Request No. 8 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to identify" and the terms "nature" and "scope."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications demonstrating her employment that are responsive to this request, if any.

REQUEST NO. 9

Documents sufficient to identify the source, nature, and scope of all financial support or income you received during the relevant time period.

RESPONSE TO REQUEST NO. 9

Plaintiff objects to Request No. 9 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to identify," and the terms "nature" and "scope."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications demonstrating her financial support and income that are responsive to this request, if any.

REQUEST NO. 10

Documents sufficient to establish your complete academic history.

RESPONSE TO REQUEST NO. 10

Plaintiff objects to Request No. 10 on the ground that it seeks information not relevant to either party's claims or defenses to the extent that it seeks documents concerning Plaintiff's "*complete academic history*" (emphasis added). Plaintiff further objects to the Request on the ground that it is vague and ambiguous to the extent it uses the undefined phrases "sufficient to establish" and "academic history."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents that demonstrate Plaintiff's academic history during the relevant time period, if any.

REQUEST NO. 11

Documents sufficient to identify all telephone numbers you used during the relevant time period.

RESPONSE TO REQUEST NO. 11

Plaintiff objects to Request No. 11 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to identify."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents to identify each of Plaintiff's telephone numbers during the relevant time period, if any.

REQUEST NO. 12

Documents sufficient to identify all email addresses you used during the relevant time period.

RESPONSE TO REQUEST NO. 12

Plaintiff objects to Request No. 12 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "sufficient to identify."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents to identify each of Plaintiff's email addresses during the relevant time period, if any.

REQUEST NO. 13

All documents and communications concerning all medical procedures and consultations you received during the relevant time period.

RESPONSE TO REQUEST NO. 13

Plaintiff objects to Request No. 13 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses to the extent that it seeks documents and communications concerning "all medical procedures and consultations" (emphasis added) regardless of the relation to the allegations in the Complaint, and will withhold responsive documents and communications, if any, based on this objection.

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning medical procedures and consultations received by Plaintiff during the relevant time period that relate to allegations of the Complaint, if any.

REQUEST NO. 14

Regardless of date and the relation (or lack thereof) to Decedent's acts and omissions alleged in the Complaint or otherwise, all documents and communications concerning all medical procedures and consultations you received evidencing or otherwise concerning the following conditions:

- a. an eating disorder,
- b. emotional distress,
- c. psychological or psychiatric trauma,
- d. mental anguish,
- e. humiliation,
- f. confusion,
- g. embarrassment,
- h. loss of self-esteem,
- i. loss of dignity,
- j. loss of enjoyment of life,
- k. pain,
- l. suffering, or
- m. any condition that would require surgery to correct.

RESPONSE TO REQUEST NO. 14

Plaintiff objects to Request No. 14 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses to the extent that it seeks documents and communications concerning "*all* medical procedures and consultations" regardless of the relation to the allegations in the Complaint and to the extent it requests information for "any condition that would require surgery to correct," and will withhold responsive documents and communications, if any, based on this objection. Plaintiff further objects to Request No. 14 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "evidencing or otherwise concerning."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning medical procedures and consultations received by Plaintiff concerning the aforementioned conditions that relate to the allegations in the Complaint, if any.

REQUEST NO. 15

To the extent not otherwise produced in response to the foregoing request and regardless of date and the relation (or lack thereof) to Decedent's acts and omissions alleged in the Complaint or otherwise, all documents and communications evidencing or otherwise concerning your experience of the same or similar conditions and damages for which you seek recovery from Defendants in this litigation.

RESPONSE TO REQUEST NO. 15

Plaintiff objects to Request No. 15 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "similar conditions and damages" and the term "evidencing."

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning her experience of the same conditions and damages from which she seeks recovery in this litigation, if any.

REQUEST NO. 16

To the extent not otherwise responsive to these requests, all documents and communications concerning anything of value you received from Decedent.

RESPONSE TO REQUEST NO. 16

Plaintiff objects to Request No. 16 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase “anything of value.”

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications concerning anything of monetary value she received from Decedent, if any.

REQUEST NO. 17

To the extent not otherwise responsive to these requests, all documents and communications concerning your allegations in the Complaint.

RESPONSE TO REQUEST NO. 17

Subject to the General Objections, Plaintiff will produce non-privileged documents and communications not otherwise responsive to other Requests concerning the allegations in the Complaint, if any.

REQUEST NO. 18

To the extent not otherwise responsive to these requests, all documents and communications upon which you intend to rely in this litigation, including but not limited to in the course of depositions, in support of any motion, and at any hearing and trial.

RESPONSE TO REQUEST NO. 18

Plaintiff objects to Request No. 18 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase “intend to rely.” Plaintiff objects to Request No. 18 to the extent that it requires Plaintiff to speculate as to which documents and communications Plaintiff may or may not reference later in this litigation.

Subject to the General and Specific Objections, Plaintiff will produce non-privileged documents and communications not otherwise responsive to other Requests that Plaintiff presently plans to rely on in this litigation, if any.

REQUEST NO. 19

To the extent not otherwise produced in response to these requests, all documents and communications evidencing or otherwise concerning any damages you allege you suffered concerning the allegations in your Complaint, including but not limited to all medical fees, attorneys' fees and lost wages.

RESPONSE TO REQUEST NO. 19

Plaintiff objects to Request No. 19 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase “evidencing or otherwise concerning.”

Subject to the General Objections, Plaintiff will produce non-privileged documents and communications not otherwise responsive to other Requests concerning Plaintiff's damages suffered as a result of the allegations in the Complaint, if any.

REQUEST NO. 19

All documents identified in your response to Defendants' First Set of Interrogatories to Plaintiff.

RESPONSE TO REQUEST NO. 19

Subject to the General Objections, Plaintiff will produce non-privileged documents not otherwise responsive to other Requests that Plaintiff identified in response to Defendants' First Set of Interrogatories to Plaintiff, if any.

Dated: April 16, 2020
New York, NY

Respectfully submitted,

By:



Roberta A. Kaplan
Kate L. Doniger
Alexandra Conlon

Kyla Magun
Louis W. Fisher
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
(212) 763-0883
rkaplan@kaplanhecker.com
kdoniger@kaplanhecker.com
aconlon@kaplanhecker.com
kmagun@kaplanhecker.com
lfisher@kaplanhecker.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JANE DOE,

Plaintiff,

v.

DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as the executors of the Estate of Jeffrey E. Epstein,

Defendants.

Case No. 19 Civ. 8673 (KPF) (DCF)

**PLAINTIFF JANE DOE'S RESPONSES AND OBJECTIONS TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Rules for the Southern District of New York (together, the “Rules”), Plaintiff Jane Doe, by and through her attorneys, submits these responses and objections (“Responses”) to Defendants Darren K. Indyke and Richard D. Kahn, in their capacities as the executors of the Estate of Jeffrey E. Epstein (“Defendants”) First Set of Interrogatories dated March 10, 2020 (the “Interrogatories”).

GENERAL OBJECTIONS AND RESPONSES

The following general objections and responses (the “General Objections”) are incorporated into each specific objection and response (the “Specific Objections”) as if fully set forth therein:

1. Plaintiff objects to the Interrogatories to the extent they are duplicative, cumulative, or seek information that has been or will be provided through other means of discovery.
2. Plaintiff objects to the Interrogatories to the extent they are vague, ambiguous, overly broad, unduly burdensome, seek information not relevant to the claims or defenses of any party, or are not proportional to the needs of the case.

3. Plaintiff objects to the Interrogatories to the extent they impose any obligations or requirements beyond the scope of the Rules or any case law interpreting them.

4. Plaintiff's Responses are not intended to be and shall not be construed as an agreement or concurrence that all information provided is admissible.

5. Plaintiff objects to the Interrogatories to the extent that they call for documents that: (a) are already in Defendants' possession, custody, or control; (b) are publicly available; or (c) are otherwise independently available to Defendants or their counsel.

6. Plaintiff objects to the Interrogatories to the extent they purport to call for documents or information that: (a) are subject to the attorney-client privilege; (b) constitute attorney work product; (c) are protected from disclosure based on common interest or a similar privilege; or (d) are otherwise protected from disclosure under applicable privilege, law, or rule. Plaintiff will not produce such information in response to the Interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such information.

7. Plaintiff objects to the Interrogatories to the extent they seek information protected by federal or state law. Except to the extent permitted by an applicable exception or court order, Plaintiff will not disclose any information in violation of federal or state law.

8. Plaintiff objects to the Interrogatories to the extent they require unreasonable measures to locate and produce responsive documents. Plaintiff will construe the Interrogatories to require a reasonable and diligent search of her reasonably-accessible files where she would reasonably expect to find information, documents, or things related to the Interrogatories, and specifically states that she will limit her search for electronically stored information by use of identified search terms to be agreed upon by the Parties.

9. Plaintiff objects to the Interrogatories to the extent that they include "discrete subparts" but are listed as one individual Interrogatory, pursuant to Rule 33(a)(1).

10. Plaintiff objects to Definition No. 1 to the extent that it imposes obligations greater than those imposed by the Rules.

11. Plaintiff objects to the Interrogatories, and in particular, Definitions No. 4 and Instructions No. 5, to the extent that they seek information or documents that are not within Plaintiff's possession, custody, or control. Subject to this General Objection, in responding to the Requests, Plaintiff will provide only responsive, non-privileged documents within Plaintiff's possession, custody, or control.

12. Plaintiff objects to Instruction No. 7 to the extent it calls for speculation.

13. Plaintiff objects to each Interrogatory to the extent that it asks Plaintiff to identify "each" or "all" persons, documents, communications, etc., on the ground that each such Interrogatory is overly broad and that compliance with each such Interrogatory would be unduly burdensome and not proportional to the needs of this case.

14. Plaintiff objects to each Interrogatory to the extent that it seeks information or documents beyond the time period relevant to the allegations in the Complaint.

15. Plaintiff objects to the Interrogatories to the extent they contain express or implied assumptions of fact or law with respect to matters at issue in this case. Plaintiff's Responses are not intended to be and shall not be construed as an agreement or concurrence with Defendants' characterization of any facts, circumstances, or legal obligations. Plaintiff reserves the right to contest any such characterization as inaccurate.

16. Plaintiff expressly reserves all rights and privileges under the Rules and any other applicable law or rule. The failure to assert such rights and privileges or the inadvertent disclosure by Plaintiff of information or documents protected by such rights or privileges shall not constitute

a waiver thereof, either with respect to these Responses or with respect to any future discovery objections or responses.

17. The fact that Plaintiff has responded to a particular Interrogatory shall not be interpreted as implying that Plaintiff acknowledges the propriety of that Interrogatory.

18. Plaintiff's Responses to the Interrogatories are made to the best of Plaintiff's present knowledge, information, and belief. These Responses are at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of Plaintiff's knowledge and investigation, are subject to such additional knowledge of facts as may result from Plaintiff's further discovery or investigation.

19. Plaintiff reserves the right to make any use of, or to introduce at any hearing and at trial, information responsive to the Interrogatories but discovered subsequent to the date of these Responses, including, but not limited to, any such information obtained in discovery herein.

20. Plaintiff reserves all objections or other questions as to the competency, relevance, materiality, privilege, or admissibility of Plaintiff's Responses herein and any documents produced subject thereto, as evidence in any subsequent proceeding in, or trial of, this or any other action, or for any other purpose whatsoever.

21. Plaintiff's Responses to the Interrogatories will be subject to the protections of any Protective Order entered by the Court governing the handling of confidential material in this case.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1

Identify all persons with knowledge of information concerning the subject matter of this litigation, and the subject matter of their knowledge.

RESPONSE TO INTERROGATORY NO. 1

Plaintiff objects to Interrogatory No. 1 as overly broad, unduly burdensome, and seeking information that is not relevant to any party's claims or defenses and disproportionate to the needs of this case to the extent it requests the identification of all persons with knowledge of information concerning "the subject matter of the litigation." Plaintiff further objects to Interrogatory No. 1 on the ground that it is vague and ambiguous to the extent it uses the phrase "the subject matter of this litigation." Plaintiff further objects to Interrogatory No. 1 on the ground that it calls for Plaintiff to speculate as to the scope of someone else's knowledge.

Subject to the General and Specific Objections, Plaintiff identifies the following persons whom Plaintiff believes have direct, relevant knowledge or information about the allegations in the Complaint:

Name	Subjects of Information
Sarah Kellen	The allegations in the Complaint, including that Jeffrey Epstein repeatedly sexually abused Doe in his home between 2002 and 2005.
Lesley Groff	The allegations in the Complaint, including that Jeffrey Epstein repeatedly sexually abused Doe in his home between 2002 and 2005.
Dr. Dawn Hughes	Jeffrey Epstein's sexual abuse of Plaintiff, including psychological impact of that abuse.
Luisa Santos de Oliveira	Jeffrey Epstein's sexual abuse of Plaintiff.
Assistant U.S. Attorney Alexander Rossmiller, Esq.	The allegations in the Complaint.
Diarmuid White, Esq.	Jeffrey Epstein's retention of Mr. White to represent Plaintiff in connection with a criminal investigation into Epstein's sexual abuse of minors.
Enisa Barisha	The allegations in the Complaint.
Leeighann Murray	The allegations in the Complaint.

Gracileia Morris	The allegations in the Complaint.
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INTERROGATORY NO. 2

Identify and describe the computation of each category of damages for which you seek recovery in this litigation.

RESPONSE TO INTERROGATORY NO. 2

Plaintiff objects to Interrogatory No. 2 on the basis that it requires expert opinion to determine the computation of each category of damages.

Subject to the General and Specific Objections, Plaintiff discloses that she is entitled to recover damages in the form of, *inter alia*, actual damages, compensatory damages, statutory damages, consequential damages, punitive damages, attorneys' fees, costs, and interest.

INTERROGATORY NO. 3

Identify the existence, custodian and location of, and generally describe, all documents and communications concerning the subject matter of this litigation.

RESPONSE TO INTERROGATORY NO. 3

Plaintiff objects to Interrogatory No. 3 as overly broad, unduly burdensome, and seeking information that is not relevant to any party's claims or defenses and disproportionate to the needs of this case to the extent it requests the identification of all documents and communications concerning "the subject matter of the litigation." Plaintiff further objects to Interrogatory No. 3 on the ground that it is vague and ambiguous to the extent it uses the phrases "generally describe" and "the subject matter of this litigation."

Subject to the General and Specific Objections, Plaintiff will identify non-privileged, responsive documents and communications concerning the allegations in the Complaint, if any, when such communications are produced in response to Defendants' First Requests for Production ("Defendants' RFPs"), subject to Plaintiff's general and specific responses and objections thereto.

Plaintiff refers Defendants to Plaintiff's Responses and Objections to Plaintiff's First Requests for Production of Documents ("Plaintiff's RFP Responses").

INTERROGATORY NO. 4

Identify each employee of, agent of, or other individual associated with Decedent with whom you communicated or interacted; and identify the date of, and describe the nature of, each such communication or interaction.

RESPONSE TO INTERROGATORY NO. 4

Plaintiff objects to Interrogatory No. 4 on the ground that it is vague and ambiguous to the extent it uses the phrase "associated with."

Subject to the General and Specific Objections, Plaintiff first refers Defendants to the Complaint and the allegations therein. Plaintiff also identifies Sarah Kellen and Lesley Groff. Plaintiff states that she interacted with Kellen and Groff between approximately 2002 and 2005 to schedule her visits to Decedent's Upper East Side mansion, and that Kellen and Groff periodically made payments to Plaintiff on Decedent's behalf during that time. Plaintiff further states that she interacted with other individuals employed by and/or associated with Decedent in his Upper East Side mansion, including maids, butlers/doormen, and drivers, among others, between approximately 2002 and 2005.

INTERROGATORY NO. 5

Describe with particularity all duties owed to you by Decedent.

RESPONSE TO INTERROGATORY NO. 5

Plaintiff objects to Interrogatory No. 5 on the ground that it is vague and ambiguous to the extent it uses the phrase "duties owed to you." Plaintiff further objects to Interrogatory No. 5 on the ground that it calls for a legal conclusion.

Subject to the General and Specific Objections, for information concerning the nature of the relationship between Decedent and Plaintiff, Plaintiff refers Defendants to the Complaint and the allegations therein, as well as Plaintiff's RFP Responses.

INTERROGATORY NO. 6

Identify and describe with particularity each act or omission on the part of Decedent that you allege constitutes a breach of a duty owed to you. For each act or omission identified, identify the date of the alleged act or omission, all persons with knowledge of the facts set forth in your response to this interrogatory, and all documents evidencing or otherwise concerning the information set forth in your response to this interrogatory.

RESPONSE TO INTERROGATORY NO. 6

Plaintiff objects to Interrogatory No. 6 on the ground that it is vague and ambiguous to the extent it uses the undefined term "evidencing." Plaintiff further objects to Interrogatory No. 6 on the ground that it calls for a legal conclusion. Plaintiff further objects to Interrogatory No. 6 on the ground that it calls for Plaintiff to speculate as to the scope of someone else's knowledge.

Subject to the General and Specific Objections, for information concerning the interactions between Decedent and Plaintiff, Plaintiff refers Defendants to the Complaint and the allegations therein, as well as Plaintiff's RFP Responses.

INTERROGATORY NO. 7

Identify and describe with particularity each act or omission on the part of Decedent that you allege constitutes a violation of New York Penal Law § 130. For each act or omission identified, identify the date of the alleged act or omission, all persons with knowledge of the facts set forth in your response to this interrogatory, and all documents evidencing or otherwise concerning the information set forth in your response to this interrogatory.

RESPONSE TO INTERROGATORY NO. 7

Plaintiff objects to Interrogatory No. 7 on the ground that it is vague and ambiguous to the extent it uses the undefined term "evidencing." Plaintiff further objects to Interrogatory No. 7 on

the ground that it calls for a legal conclusion. Plaintiff further objects to Interrogatory No. 7 on the ground that it calls for Plaintiff to speculate as to the scope of someone else's knowledge.

Subject to the General and Specific Objections, Plaintiff refers Defendants to Plaintiff's Response to Interrogatory No. 1, the Complaint and the allegations therein, as well as Plaintiff's RFP Responses.

INTERROGATORY NO. 8

Identify with particularity each act or omission on the part of Decedent that you allege constitutes a tort. For each act or omission identified, identify the date of the alleged act or omission, the tort you allege the act or omission constitutes, all persons with knowledge of the information set forth in your response to this interrogatory, and all documents evidencing or otherwise concerning such information.

RESPONSE TO INTERROGATORY NO. 8

Plaintiff objects to Interrogatory No. 8 on the ground that it is vague and ambiguous to the extent it uses the undefined term "evidencing." Plaintiff further objects to Interrogatory No. 8 on the ground that it calls for a legal conclusion. Plaintiff further objects to Interrogatory No. 8 on the ground that it calls for Plaintiff to speculate as to the scope of someone else's knowledge.

Subject to the General and Specific Objections, Plaintiff refers Defendants to Plaintiff's Response to Interrogatory No. 1, the Complaint and the allegations therein, as well as Plaintiff's RFP Responses.

INTERROGATORY NO. 9

Identify all persons other than Decedent who have ever committed or attempted to commit sexual misconduct or offenses against or otherwise concerning you, including, without limitation, any unwelcome behavior of a sexual nature, sexual abuse, sexual assault, threats or intimidation of a sexual nature, or sexual exploitation, regardless of whether the misconduct or offenses involved physical touching. For each person identified, identify the misconduct or offense committed, and the date and location of the misconduct or offense.

RESPONSE TO INTERROGATORY NO. 9

Plaintiff objects to Interrogatory No. 9 as overly broad, unduly burdensome, and seeking information that is not relevant to any party's claims or defenses and disproportionate to the needs of this case to the extent it requests the identification of "*all* persons" who have "committed or attempted to commit sexual misconduct or offenses against or otherwise concerning you," including, for example, "any unwelcome behavior of a sexual nature," regardless of the relation to the allegations in the Complaint and regardless of the severity of the behavior, and to the extent it requests the "location of the misconduct or offense." Plaintiff further objects to Interrogatory No. 9 on the ground that it is vague and ambiguous to the extent it uses the phrases "unwelcome behavior of a sexual nature" and "threats or intimidation of a sexual nature."

Subject to the General and Specific Objections, Plaintiff states that her stepfather, Aderbal Felisbino, committed acts of sexual abuse against her on a number of occasions between when she was approximately eight years old and approximately thirteen years old.

INTERROGATORY NO. 10

Identify all medical procedures and consultations you received, including the dates of each procedure and consultation, the locations of each procedure and consultation, and the identities of all medical providers who conducted or otherwise participated in each procedure and consultation. The relevant time period for this interrogatory is the date on which you first learned of Decedent through the date of your responses to these interrogatories.

RESPONSE TO INTERROGATORY NO. 10

Plaintiff objects to Interrogatory No. 10 as overly broad, unduly burdensome, and seeking information that is not relevant to any party's claims or defenses and disproportionate to the needs of this case to the extent it requests the identification of "*all* medical procedures and consultations," regardless of the relation to the allegations in the Complaint and "the identities of *all* medical

providers who . . . otherwise participated in each procedure and consultation,” regardless of his or her role in the procedure or consultation.

Subject to the General and Specific Objections, Plaintiff identifies the following mental and/or physical health care providers who provided treatment or services relevant to the claims and defenses in this action:

Provider	Treatment Type
Dr. Mary Adar Advantage Care Physicians 9610 Metropolitan Ave. Queens, NY 11375	Primary and Mental Health care
Dr. Peter Rosenberg 26-19 212th St Bayside, NY, 11360	Primary and Mental Health care
Astoria Medical Arts, P.C. 24-27 Steinway Street Astoria, NY 11103	Primary and Mental Health care
Primary Care Associates 154-03 10 th Avenue Flushing, NY 11357	Primary and Mental Health care
Westside Family Medicine 535 West 110 th Street, Suite 1E New York, NY 10025	Primary and Mental Health care

Plaintiff further refers Defendants to the documents produced in response to Request No. 13 of Defendants' RFPs.

INTERROGATORY NO. 11

Regardless of date and the relation (or lack thereof) to Decedent's acts and omissions alleged in the Complaint or otherwise, identify all medical procedures and consultations you received evidencing or otherwise concerning the following conditions:

- a. an eating disorder,
- b. emotional distress,
- c. psychological or psychiatric trauma,
- d. mental anguish,
- e. humiliation,
- f. confusion,
- g. embarrassment,

- h. loss of self-esteem,
- i. loss of dignity,
- j. loss of enjoyment of life,
- k. pain,
- l. suffering, or
- m. any condition that would require surgery to correct

RESPONSE TO INTERROGATORY NO. 11

Plaintiff objects to Interrogatory No. 11 on the ground that it is overly broad, unduly burdensome, and seeks information not relevant to either party's claims or defenses to the extent that it seeks documents and communications concerning "all medical procedures and consultations" regardless of the relation to the allegations in the Complaint and to the extent it requests information for "any condition that would require surgery to correct." Plaintiff further objects to Interrogatory No. 11 on the ground that it is vague and ambiguous to the extent it uses the undefined term "evidencing."

Subject to the General and Specific Objections, Plaintiff refers Defendants to her Response to Interrogatory No. 10 and to the documents produced in response to Request No. 14 of Defendants' RFPs.

INTERROGATORY NO. 12

State whether you have ever experienced the same or similar conditions and damages, for which you seek recovery from Defendants in this litigation, as a result of acts or omissions by persons other than Decedent. If you answer this interrogatory in the affirmative: identify each such person; describe the acts or omissions that resulted in the damages; identify the dates and locations of such acts and omissions; and describe the damages that resulted.

RESPONSE TO INTERROGATORY NO. 12

Plaintiff objects to Interrogatory No. 12 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase "similar conditions and damages." Plaintiff further objects to Interrogatory No. 12 on the ground that it calls for speculation. Plaintiff also objects to

Interrogatory No. 12 on the basis that the determination as to whether Plaintiff has experienced “the same or similar conditions or damages . . . as a result of acts or omissions by persons other than Decedent” calls for an expert opinion.

Subject to the General and Specific Objections, Plaintiff refers Defendants to the forthcoming expert reports in this Litigation.

INTERROGATORY NO. 13

Identify all things of value you received from Decedent, including a description of the thing, the date on which you received the thing, and the person who tendered the thing to you.

RESPONSE TO INTERROGATORY NO. 13

Plaintiff objects to Interrogatory No. 13 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase “things of value.”

Subject to the General and Specific Objections, Plaintiff refers Defendants to the Complaint and the allegations therein, as well as Plaintiff’s Response to RFP No. 16. Plaintiff states that she received numerous cash payments between 2002 and 2005 from Decedent and Decedent’s associates, Sarah Kellen and Lesley Groff, on Decedent’s behalf. Plaintiff further states that she received a shipment of furniture from Decedent to her home in Astoria between 2002 and 2005, delivered by men employed by Decedent.

INTERROGATORY NO. 14

Identify all documents and communications upon which you intend to rely in this litigation, including but not limited to in the course of depositions, in support of any motion, and at any hearing or trial.

RESPONSE TO INTERROGATORY NO. 14

Plaintiff objects to Interrogatory No. 14 on the ground that it is vague and ambiguous to the extent it uses the undefined phrase “intend to rely.” Plaintiff further objects to Interrogatory

No. 14 to the extent that it requires Plaintiff to speculate as to which documents and communications Plaintiff may or may not reference later in this litigation.

Subject to the General and Specific Objections, Plaintiff refers Defendants to documents and communications produced in response to Defendants' RFPs, if any.

INTERROGATORY NO. 15

Identify all documents and communications evidencing or otherwise concerning damages and everything else for which you seek recovery in this litigation, including but not limited to damages you allege in your Complaint, medical fees, attorneys' fees and lost wages.

RESPONSE TO INTERROGATORY NO. 15

Plaintiff objects to Interrogatory No. 15 on the ground that it is vague and ambiguous to the extent it uses the undefined term "evidencing."

Subject to the General and Specific Objections, Plaintiff refers Defendants to documents and communications produced in response to Defendants' RFPs.

Dated: April 16, 2020
New York, NY

Respectfully submitted,

By:



Roberta A. Kaplan
Kate L. Doniger
Alexandra Conlon
Kyla Magun
Louis W. Fisher
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
(212) 763-0883
rkaplan@kaplanhecker.com
kdoniger@kaplanhecker.com
aconlon@kaplanhecker.com
kmagun@kaplanhecker.com
lfisher@kaplanhecker.com

Attorneys for Plaintiff

Exhibit D

KAPLAN HECKER & FINK LLP

350 FIFTH AVENUE | SUITE 7110
NEW YORK, NEW YORK 10118
TEL (212) 763-0883 | FAX (212) 564-0883
WWW.KAPLANHECKER.COM

DIRECT DIAL 212.763.0884
DIRECT EMAIL rkaplan@kaplanhecker.com

June 5, 2020

BY EMAIL

Bennet J. Moskowitz
Troutman Sanders LLP
875 Third Avenue
New York, New York 10022

Re: Doe v. Indyke et al., No. 19-cv-8673 (S.D.N.Y.) (KPF) (DCF)

Dear Bennet:

We write in response to Defendants' May 19, 2020 letter ("May 19 Letter") regarding Plaintiff's and Defendants' First Interrogatories and Requests for Production (respectively, "Plaintiff's Requests" and "Defendants' Requests") and the parties' respective Responses and Objections thereto.

I. Defendants' Responses to Plaintiff's Interrogatories and Requests for Production

A. Defendants' General Obligation to Conduct a Reasonable Inquiry

As stated in our May 12, 2020 Letter ("May 12 Letter"), Plaintiff's position is simply that, in responding to Plaintiff's Requests, Defendants are obligated to provide reasonably obtainable information within the Estate's possession, custody, or control. It was necessary for Plaintiff to assert this uncontroversial principle only because, at the time of our letter, the Co-Executors had failed to meaningfully answer *any* of Plaintiff's Requests, although responsive information—such as, for example, Jeffrey Epstein's email address—was quite obviously within the custody or control of Epstein's Estate. Further, you repeatedly represented to us that Defendants' ability to identify responsive information was limited in light of Epstein's demise, a circumstance which in no way alleviates the Co-Executors' burden to take all reasonable steps to locate and produce responsive information, including by consulting records and individuals who are subject to the Estate's control.

Since our May 12 Letter, Defendants have supplemented their responses, and it appears that, despite Defendants' lengthy argument that the cases Plaintiff cites for this principle are "inapplicable," Defendants agree that they must respond to discovery questions "using all

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reasonably obtainable information within their possession, custody or control.” (May 19 Letter at 2.) We expect that the Co-Executors will comply with this obligation.

II. Plaintiff’s Responses to Defendants’ Interrogatories and Requests for Production

A. Defendants’ Interrogatories Nos. 10, 11 & 12 and Request Nos. 13 & 14:

Defendants’ Requests seek information about Plaintiff’s entire medical history, without limitation as to time or content. Plaintiff has agreed to provide information relating to medical conditions, treatments, or services *relevant to the claims and defenses in this action*. Defendants are entitled to nothing more.

Defendants’ continued insistence that Plaintiff must produce her entire medical history and related records is flatly incorrect. Well-established precedent in this Circuit makes clear that Defendants do not have an “unfettered right to pursue discovery into [Plaintiff’s] entire medical history.” *Manessis v. New York City Dep’t of Transp.*, No. 02 Civ. 359, 2002 WL 31115032, at *2 (S.D.N.Y. Sept. 24, 2002) (Freeman, M.J.) (holding that, in an emotional distress claim, Defendants are “entitled to discover [Plaintiff’s] mental health treatment records,” but may “not pursue discovery into treatments [Plaintiff] may have received for *any* physical ailments.” (emphasis added)); *see also, e.g., Kunstler v. City of New York*, No. 04 Civ. 1145, 2006 WL 2516625, at *4 (S.D.N.Y. Aug. 29, 2006).

In addition, Defendants’ contention that Plaintiff “does not get to be the arbiter of what is ‘relevant’ to the claims and defenses in this matter, nor what is ‘similar’ to the conditions she alleges Mr. Epstein caused” is fundamentally incompatible with the principles and functional realities of civil discovery. (May 19 Letter at 4.) A responding party is not obligated to produce documents that are not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). And of course, it is Plaintiff who, through her counsel, must review her documents and information and determine what is responsive and discoverable and what is not. That does not mean that Defendants are without recourse to interrogate the completeness of Plaintiff’s productions. As we explained during the meet and confer conference, Defendants may investigate Plaintiff’s physical and mental health history through deposition testimony, her anticipated Rule 35 examination, and other discovery responses. If those or other discovery devices give Defendants’ reason to believe that Plaintiff has additional, undisclosed medical problems that are relevant to the claims and defenses in this action, “then Defendants may appropriately seek medical records concerning that underlying medical problem.” *Manessis*, 2002 WL 31115032, at *2.

To the extent Defendants continue to insist that Plaintiff’s claims entitle them to dig unfettered through her entire medical history and records, despite clear case law to the contrary, we are, unfortunately, at an impasse.

B. Defendants’ Requests No. 1 & 3:

Defendants assert that they are “unconvinc[ed]” that communications *solely in the custody of Plaintiff’s attorneys and relating to this litigation and to Decedent* will overwhelmingly be protected by the attorney-client privilege and/or the work product doctrine. (May 19 Letter at 4.) This assertion is ludicrous. To the extent these requests call for such communications, it is clear

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that the burden of attempting to identify non-privileged material in the entire universe of Plaintiff's counsel's communications concerning this case vastly outweighs the minimal potential benefit to Defendants in terms of discoverable information. For this reason, Plaintiff asked during the May 4, 2020 meet and confer that Defendants identify the specific categories of non-privileged, relevant counsel communications they are seeking. Defendants informed us that they are seeking (i) communications between Plaintiff's counsel and counsel for plaintiffs in similar pending cases against Epstein's Estate and (ii) communications between Plaintiff's counsel and journalists concerning Plaintiff's specific allegations. We address each category, and the related issues raised in the May 19 Letter, in turn.

1. Communications with counsel for other plaintiffs in similar pending cases

As Plaintiff's May 12 Letter made clear, communications between Plaintiff's counsel and counsel to plaintiffs in similar suits against Defendants are protected from discovery by, at a minimum, the work product doctrine and the common interest privilege.¹ (May 12 Letter at 4.)

Defendants' May 19 Letter fails to even address the fact that these communications are subject to the work product protection. As explained, Plaintiff's counsel has communicated with counsel for other plaintiffs about only matters of legal strategy—chiefly, regarding the proposed victim compensation program. Accordingly, those communications, which reflect Plaintiff's counsel's mental impressions, conclusions, opinions or legal theories, are subject to the protection of the work product doctrine. *See Fed. R. Civ. P. 26(b)(3); In re Grand Jury Subpoena Dated July 6, 2005*, 510 F.3d 180, 183–84 (2d Cir. 2007). The fact that these communications involved nonparties to this case does not waive such protection. *Spanierman Gallery, Profit Sharing Plan v. Merritt*, No. 00 Civ. 5712, 2003 WL 22909160, at *2 (S.D.N.Y. Dec. 9, 2003). Work product protection is waived by disclosure to a third party only when that disclosure makes disclosure to an adversary materially more likely. *Favors v. Cuomo*, 285 F.R.D. 187, 200 (E.D.N.Y. 2012). Disclosure of Plaintiff's strategy to counsel for other plaintiffs did not make disclosure to an adversary any more likely, given that all involved are similarly adverse to Defendants. *See Thai-Lao Lignite (Thailand) Co. v. Gov't of Lao People's Democratic Republic*, 945 F. Supp. 2d 431, 437 (S.D.N.Y. 2013) (Freeman, M.J.); *see also Costabile v. Westchester, New York*, 254 F.R.D. 160, 166 (S.D.N.Y. 2008) (holding work product protection was not waived in part because “there is very little chance that the report would be disclosed to defendants . . . because plaintiffs and the [third party government agency] were aligned in interest”). Indeed,

With respect to Plaintiff's assertion that these communications are also covered by a common interest privilege, Defendants' May 19 Letter argues that Plaintiff has failed to articulate an interest she shares with other plaintiffs' counsel. (May 19 Letter at 4.) To the contrary, as Plaintiff made clear, all plaintiffs in the pending cases, which have been consolidated for discovery purposes, share a common legal interest because they are bringing substantially similar claims against the same defendants. *See Schultz v. Milhorat*, No. 10 Civ. 103, 2011 WL 13305347, at *3 (E.D.N.Y. Apr. 11, 2011) (finding common interest privilege applicable where the issues

¹ Plaintiff does not hereby waive her right to assert attorney-client privilege where applicable. *See, e.g., HSH Nordbank AG New York Branch v. Swerdlow*, 259 F.R.D. 64, 70 & n.6 (S.D.N.Y. 2009) (“Under New York law, the attorney-client privilege protects confidential communications between client and counsel where such communications are made for the purpose of providing or obtaining legal advice.”).

overlapped “to such an extent that the parties in each case have agreed to consolidate all of the cases for discovery purposes”); *Costabile*, 254 F.R.D. at 164–65 (“So long as transferor and transferee anticipate litigation against a common adversary on the same issue or issues, they have strong common interests in sharing the fruit of the trial preparation efforts.”).² Indeed, Judge Freeman has repeatedly expressed the view that the legal issues and the interests of the plaintiffs in these consolidated cases, like those in *Schultz*, are overlapping.³

Defendants further suggest that the communications between plaintiffs’ counsel did not further any shared legal interest. To the contrary, all communications between plaintiffs’ counsel were exchanged “in the course of formulating a common legal strategy.” *Fireman’s Fund Ins. Co. v. Great Am. Ins. Co. of New York*, 284 F.R.D. 132, 140 (S.D.N.Y. 2012). It is indisputable that, in discussions about the pending claims program, plaintiffs’ counsel were “collaborating on a legal effort that is dependent on the disclosure of otherwise privileged information between the parties or their counsel.” *AU New Haven, LLC v. YKK Corp.*, No. 15 Civ. 03411, 2016 WL 6820383, at *3 (S.D.N.Y. Nov. 18, 2016). That plaintiffs’ counsels’ communications are therefore protected is especially clear where, as here, all communications involve only attorneys for the respective plaintiffs. *Id.* (explaining courts often consider in assessing this factor whether an attorney for either party participated in the exchange of privileged information); *Obeid v. Mack*, No. 14 Civ. 6498, 2016 WL 7176653, at *8 (S.D.N.Y. Dec. 9, 2016).

To the extent Defendants continue to take the position that communications between Plaintiff’s counsel and counsel for plaintiffs in other similar cases are discoverable, despite the fact that they are protected by the work product doctrine and common interest doctrine, we are, unfortunately, at an impasse.

2. Communications between Plaintiff’s counsel and journalists

With respect to Defendants’ request for communications between Plaintiff’s counsel and journalists concerning this litigation and Decedent, Defendants’ May 19 Letter asserts that Plaintiff’s May 12 Letter improperly limited the scope of this request to communications relating to Plaintiff’s specific allegations. To the extent that this request seeks other communications between counsel and journalists—which might include, for example, requests for comment made by the press, inquiries by the press concerning hearings and case schedules, and statements by counsel in their personal capacities on subjects unrelated to Plaintiff’s case—those communications are not related to the claims and defenses of either party to this action and are not discoverable. Indeed, during our meet and confer, Defendants made no effort to argue that such communications are discoverable, instead representing that this request was intended to solicit communications between Plaintiff’s counsel and journalists regarding Plaintiff’s specific allegations.

² See also, e.g., *Pampered Chef v. Alexanian*, 737 F. Supp. 2d 958, 965 (N.D. Ill. 2010) (“[T]he common interest rule has been extended in a wide range of circumstances, frequently those involving civil co-defendants, companies individually summoned before a grand jury, potential co-parties to prospective litigation, plaintiffs filing separate actions in different states and civil defendants who were sued in separate actions.”) (emphasis added)) (collecting cases).

³ See Nov. 21, 2019 Hr’g Tr. at 8:21-9: 3; 32:4-9; 41:3-6.

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With regard to that category of communications, Plaintiff's counsel represented in her May 12 Letter that "to the best of their knowledge," Plaintiff and/or her counsel have not communicated with journalists about her specific allegations. Defendants' May 19 Letter requested an explanation for this qualifying language. Plaintiff clarifies that this language was intended to communicate that this representation was made based on Plaintiff's and counsel's best recollections and not based on an unduly burdensome review of documents or communications. Defendants' May 19 Letter notes that Plaintiff's counsel has been interviewed by the media about Epstein, his estate, and this lawsuit, which Plaintiff's counsel does not dispute. However, Plaintiff's counsel has not discussed *Plaintiff's specific allegations* with the press, and the statements counsel has made, which primarily concern the settlement fund and the probate process, are not relevant to the claims and defenses in this matter.

To the extent that Defendants continue to take the position that they are entitled to any communications between Plaintiff's counsel and journalists regarding Decedent or this litigation, regardless of whether those communications relate to the claims and defenses in this action, we are at an impasse. To the extent that Defendants are seeking communications concerning Plaintiff's specific allegations, we reiterate that, to the best of our knowledge, no such communications exist.

Please let us know if you would like to confer further about these or any other issues related to discovery. We continue to reserve all rights.

Very truly yours,



Roberta A. Kaplan