

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE NO. 3,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT EPSTEIN'S RESPONSE IN OPPOSITION TO THIS COURT'S ORDER TO
SHOW CAUSE AS WHY ALL CASES SHOULD NOT BE CONSOLIDATED FOR DISCOVERY
PURPOSES AND MOTION TO CLARIFY THE COURT'S ORDER DATED APRIL 28, 2009**

Defendant, JEFFERY EPSTEIN, (EPSTEIN), by and through his undersigned attorneys, hereby files his Response in Opposition to this Court's Order to Show Cause as to Why All Cases Should Not be Consolidated for Purposes of Discovery and Motion for Clarification of this Court's Order on general consolidation of discovery (DE 78), and states:

I. Response In Opposition

Defendant has no further objections to consolidating these cases for purposes of depositions as outlined in this Court's April 28, 2009 Order.

However, to consolidate the cases for purposes of all "discovery" including, but not limited to, motion practice and related orders thereto will, without question, confuse many of the individual discovery issues raised not only by Epstein as to the individual Plaintiffs that have brought separate lawsuits against him, but will also confuse the individual discovery issues raised by those same individual Plaintiffs as to Epstein. This will undoubtedly lead to several motions to clarify certain orders which will seek

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explanation from the court as to how those orders affect Epstein as to each individual Plaintiff's discovery requests and vice versa (i.e., how those future orders affect the individual Plaintiffs' discovery requests directed to Epstein).

It is important to note that each related Federal matter before this court has its very own distinct set of facts and defenses thereto. As such, the discovery served and the responses received are particular and individualized as to both Plaintiff and Defendant. As such, discovery of "all" cases for general discovery consolidation (separate and apart from depositions) will only cloud rulings on discovery and will result in more attorney labor and judicial resources, which will inevitably be spent on motions for clarification.

Each Plaintiff and Epstein have served and will in the future serve separate requests for production, separate interrogatories, separate requests for admissions, and separate motions to compel, responses and replies addressing certain discovery issues. Obviously, both Plaintiff and Defendant will base their discovery related arguments on the particularized facts of each case, which are separate and distinct from one another. Moreover, the Plaintiffs will likely seek to retain different experts to support their individual claims. In that regard, how will a general consolidation of discovery impact discovery related to those experts' individualized opinions?

As this court is aware, certain case management orders are in place setting the parameters of discovery. It is unclear how Plaintiffs' Motion to Consolidate and the Courts Order will handle the potential problems and any other potential discovery related issues outlined above. In fact, it appears that Jane Doe, in Case No. 08-CV-80893 (DE 47), has expressed her own reasons for opposing the consolidation all the

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cases for discovery purposes. Obviously, Jane Doe's counsel, like the undersigned, anticipates that discovery issues will present themselves if general consolidation occurs and does not want it to impact her case. In fact, the debates have already begun in light of this Court's April 29, 2009 Order and the responses filed addressing same. This provides the court with a glimpse of what will occur if general consolidation occurs, in particular, how attorney resources and judicial resources will be unnecessarily used.

In addition, the initial style of each case should be maintained in pleadings and in orders in an effort to maintain organization and application of the rulings this court espouses for each case. Utilizing a compound multiple-type style will only confuse cases that should be kept separate for all discovery purposes.

II. Motion for Clarification of this Court's April 28, 2009 Order

This Court ruled that cases 08-80119, 08-80232, 08-80380 and 08-80993 are consolidated for discovery purposes. Epstein not only objects to the court's consolidation order but seeks clarification from this Court as to how consolidation of general discovery will impact motion practice and orders in the above cases. What does the court mean when it says the above cases are consolidated "for purposes of discovery only?" How does consolidation operate? The concerns addressing general discovery consolidation are set out above and are therefore incorporated herein. Likewise, for those reasons, the court should reverse its ruling on consolidation and issue a new order maintaining the individuality of each case for discovery purposes.

In addition, Epstein not only objects to the court's potential consolidation of case numbers 08-80381, 08-80994, 08-80811, 08-80893, 09-80469 and 09-80591 for general discovery purposes, but respectfully requests that this court clarify how

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consolidation of general discovery will impact motion practice and orders in the above cases should this court choose to consolidate same for discovery. Again, how does consolidation operate? The concerns addressing general discovery consolidation are set out above and are therefore incorporated herein.

In short, the Motions seeking consolidation for discovery purposes only do not delineate how consolidation operates. As such, the Order granting the Motions to Consolidate for discovery purposes only does not provide any additional information addressing how consolidation will operate.

WHEREFORE, Defendant requests that this Court not consolidate case numbers 08-80381, 08-80994, 08-80811, 08-80893, 09-80469 and 09-80591, that it clarify its order as to consolidation of case numbers 08-80119, 08-80232, 08-80380 and 08-80993 (or the future consolidation of other cases) and that it reverse its April 28, 2009 ruling on general consolidation in light of the potential problems presented in this response, that an order be entered requiring the parties to utilize the style secured by the initial case filing and not a compound-case style incorporating all case styles in one particular document, and for such other and further relief as this Court deems just and proper.



By: Robert D. Critton, Jr.
ROBERT D. CRITTON, JR., ESQ.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the following Service List in the manner specified by CM/ECF on this 4 day of May, 2009:

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Respectfully submitted,

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