

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JANE DOE NO. 2,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 3,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 4,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 5,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 6,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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

JANE DOE NO. 7,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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

C.M.A.,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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

JANE DOE,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

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

DOE II,

CASE NO.: 09-CV-80469-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 101,

CASE NO.: 09-CV-80591-MARRA/JOHNSON

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

JANE DOE NO. 102,

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

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

**PLAINTIFF'S RESPONSE TO DEFENDANT, JEFFREY EPSTEIN'S MOTION TO
STRIKE CASES FROM CURRENT TRIAL DOCKET AND MOTION TO CONTINUE
CASE AND/OR ALTERNATIVE MOTION TO MODIFY TRIAL AND SCHEDULING
ORDER DEADLINES**

The Plaintiff, C.M.A., by and through undersigned counsel, files this Response to Defendant, Jeffrey Epstein's Motion to Strike Cases From Current Trial Docket And Motion to Continue Case And/Or Alternative Motion to Modify Trial and Scheduling Order (D.E. 104), and further states as follows:

1. Defendant EPSTEIN seeks to have this case (and others that are presently pending) stricken from the trial docket, or continued for at least an additional three months or have the existing pretrial deadlines extended. In light of Plaintiff's filing of her *Conditional Notice of Intent to Exclusively Rely on Statutory Damages Provided by 18 U.S.C. §2255* (D.E. 113) on June 5, 2009, Plaintiff agrees to a modification of the pretrial schedule as outlined in Defendant EPSTEIN's *Motion to Strike* (D.E. 104); to wit, extending discovery for an additional three months from the currently set deadline of August 28, 2009, extending the current deadline of October 15, 2009 by two months to file substantive pretrial motions, extending the current deadline of December 21, 2009 by one month to mediate this matter, and extending the deadline of June 29, 2009 by one month to exchange expert witness reports.¹

2. EPSTEIN's requests to have this case stricken from the trial docket, or in the alternative, continued for three months, however, are not warranted under the circumstances and would unreasonably and unnecessarily delay the resolution of this case. The filing of the instant motion marks the third different way EPSTEIN has sought to delay the trial on this matter. First, it was Defendant's Motion for Stay (D.E. 33), which was denied by the Court on December 17, 2008. Next, it was Defendant's second Motion for Stay (D.E. 51), which is presently pending before the Court. Third, and unfortunately, probably not the last, is Defendant's latest attempt to delay the trial of this case.

¹ With regards to the last requested modification of the pretrial order, EPSTEIN requests "an additional month to complete the remaining deadlines under each of the Court's Trial Orders." Given that each of the other deadlines not specifically listed above are to take place 15 days or less from the calendar call date of February 19, 2010 (which is 3 days from the trial date of February 22, 2010), the only logical deadline EPSTEIN could be referring to is the expert witness report exchange.

3. In order to justify his latest attempt to delay the trial of this case, EPSTEIN argues that Plaintiff's conduct has prevented him from "conducting any meaningful discovery, including the taking of C.M.A.'s supervisors, co-workers, acquaintances, friends, and other third parties." (D.E. 104, pg. 7). The sworn affidavit by counsel for Defendant, Michael Pike, Esq. repeats the same allegation ("As a result, the undersigned has not had an opportunity to depose any individuals that may have information about the allegations made by Plaintiffs." (D.E. 042-2, paragraph 4).

4, Defendant's Motion and affidavit are simply not supported by the history of this case. First, this case was filed in state court on February 21, 2008. Defendant EPSTEIN was served with a summons and complaint on July 2, 2008. For reasons that are known only to himself and his counsel in this case, EPSTEIN waited a full six months before propounding any discovery of any kind upon Plaintiff. EPSTEIN filed his first set of interrogatories on January 16, 2009, and his first set of requests to produce on January 16, 2009. EPSTEIN's choice to wait a half a year before engaging in formal discovery is not the Plaintiff's fault, nor can he now be allowed to argue that the current trial setting is unworkable because of his failures.

5. Second, Plaintiff provided answers to Defendant's first set of interrogatories on February 18, 2009 (Attached as Exhibit "1"). Plaintiff's answers to interrogatories identifies thirty six (36) people, other than herself and EPSTEIN, who have or may have knowledge regarding the subject matter of the instant law suit. This list of individuals includes Plaintiff's relatives, mental health providers, a former boyfriend, her friends, other victims of EPSTEIN, members of law enforcement who investigated EPSTEIN, and former employees and/or associates of EPSTEIN. Armed

with the identities of these crucial fact witnesses for almost the last four (4) months, EPSTEIN had not set a single one of them for deposition as of the time he filed the instant motion. Defendant's claims that he has been absolutely prevented from engaging in any discovery as a result of Plaintiff's "delay tactics" are absolutely belied by the fact that he actually has much of the information he complains Plaintiff is concealing from him, but has chosen to do nothing with it over the last four months.

6. Plaintiff also filed on February 2, 2009 her Initial Disclosure which likewise identified multiple individuals who had or may have knowledge regarding the subject matter of the instant suit (Attached as Exhibit "2"). Defendant failed to set any of those identified individuals for deposition either.

7. Once again, Defendant cannot bury his head in the sand by failing to take available discovery and then turn around and complain that he cannot get ready for trial scheduled in February of 2010.

8. Third, EPSTEIN inappropriately characterizes Plaintiff's assertions of the protections afforded to her under the applicable rules of procedure and case law with respect to unreasonably invasive and irrelevant discovery propounded by EPSTEIN as an attempt to conceal evidence from EPSTEIN and delay the discovery of same. Defendant's allegations in this regard are flat out wrong. Plaintiff, just like EPSTEIN, has certain rights and privileges with respect to the scope of permissible discovery. Plaintiff has every right to avail herself of the protections available to her under the rules of discovery without fear of claims from EPSTEIN that she is concealing or delaying anything. Indeed, it is ironic that EPSTEIN takes issue with a litigant invoking the protections available to her with regards to inappropriate and unreasonable discovery

when he himself has failed to respond to any discovery propounded to him by Plaintiff, but instead has invoked his 5th Amendment privilege.

9. Fourth, in the event that the Court rules that Plaintiff can recover the statutory damage floor established in 18 U.S.C. §2255 for each proven incident of abuse committed by EPSTEIN upon her, the discovery which EPSTEIN presently seeks will not be relevant or material in any way given Plaintiff's Conditional Notice of Intent to Exclusively Rely on Statutory Damages Provided by 18 U.S.C. §2255.

10. Defendant asserts as justification for continuing this case what can fairly be characterized as routine and ordinary discovery disputes. Nothing contained in either his motion or supporting affidavit rises to the level of "exceptional circumstances" required by Local Rule 7.6 to continue a trial setting. Any issues related to discovery can certainly be cured by extending the trial deadlines as proposed by EPSTEIN. Delaying the trial of this case is simply not necessary nor justified.

WHEREFORE, in light of the foregoing, the Plaintiff respectfully requests this Court enter an order denying Defendant, Jeffrey Epstein's Motion to Strike Cases From Current Trial Docket And Motion to Continue Case And/Or Alternative Motion to Modify Trial and Scheduling Order.

Respectfully submitted,

/s/Jack P. Hill

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 8th, 2009, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified above via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/Jack P. Hill

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