

Michael C. Miller
212 506 3955
mmiller@steptoe.com



1114 Avenue of the Americas
New York, NY 10036
212 506 3900 main
www.steptoe.com

October 12, 2017

SUBMITTED UNDER SEAL

Hon. John G. Koeltl
United States District Court
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

**Re: Jane Doe 43 v. Jeffrey Epstein, et al.
Civil Action No. 17-cv-616**

Dear Judge Koeltl:

We represent Defendants Jeffrey Epstein and Lesley Groff ("Defendants") in the above-referenced matter (the "*Jane Doe* Matter") and write to respond to Plaintiff's October 5, 2017 letter to the Court ("October 5 Letter"). In the October 5 Letter, Plaintiff claims (without merit) that Defendants are engaging in discovery in the *Jane Doe* Matter and asserts that Plaintiff should be permitted to engage in reciprocal discovery. In fact, Defendants are not engaging in any discovery in the *Jane Doe* Matter, and Plaintiff should not be permitted to launch one-sided and premature discovery in the *Jane Doe* Matter. Defendants respectfully submit that the Court should deny Jane Doe's application to engage in discovery.

Far from engaging in any discovery in the *Jane Doe* Matter, Defendants are seeking permission to use documents they already possess. As we previously advised the Court, Plaintiff voluntarily gave deposition testimony and produced documents relating to the allegations in the *Jane Doe* Matter in a matter captioned *Giuffre v. Maxwell*, No. 15 Civ. 7433 (RWS) (the "*Giuffre* Matter") (the "*Jane Doe* Evidence"). The *Jane Doe* Evidence, given by Plaintiff shortly after she filed the *Jane Doe* Matter, was designated as Confidential pursuant to the Protective Order in the *Giuffre* Matter. Mr. Epstein, as a non-party witness in the *Giuffre* Matter, was provided with a copy of the *Jane Doe* Evidence. The *Jane Doe* Evidence, as it turns out, is dispositive of the motion to dismiss that Defendants plan to file in the *Jane Doe* Matter ("Motion to Dismiss"). In particular, the *Jane Doe* Evidence demonstrates that Plaintiff's claim in the *Jane Doe* Matter is barred by the longest potentially applicable ten-year statute of limitations, the Court in the *Jane Doe* Matter lacks personal jurisdiction over Defendants, and Plaintiff cannot plead a legally sufficient amended complaint. In short, the *Jane Doe* Evidence establishes that the *Jane Doe* Matter should be dismissed with prejudice.

Hon. John G. Koeltl
October 12, 2017
Page 2

On July 14, 2017, we wrote to this Court seeking: (a) permission to file a motion requesting relief from the Protective Order issued in the *Giuffre* Matter to permit Defendants to use the Jane Doe Evidence in support of the Motion to Dismiss; and (b) a brief stay of the schedule for the Motion to Dismiss. On July 17, 2017, Plaintiff submitted a letter to the Court opposing Defendants' request. In particular, Plaintiff contended that Defendants may obtain the information contained in the Jane Doe Evidence by deposing Plaintiff and that Plaintiff "can obtain her own information relevant to jurisdiction by deposing Epstein and other Defendants in this case" (letter at p. 2). On July 17, 2017, the Court granted Defendants' request, and issued an Order under seal, directing (a) Defendants to make their application for relief from the Protective Order to Judge Sweet and (b) file their Motion to Dismiss within seven (7) days after Judge Sweet's decision (the "July 17 Order").

In accordance with the July 17 Order, we attempted to reach agreement with Plaintiff that the Protective Order in the *Giuffre* Matter should be modified to permit Defendants to use the Jane Doe Evidence in support of the Motion to Dismiss. After several rounds of negotiation, Plaintiff has agreed to support a piecemeal modification of the Protective Order, permitting Defendants only to use Plaintiff's deposition transcript and a handful of her 557 page document production in the *Giuffre* Matter. As a result, Defendants filed a motion before Judge Robert W. Sweet on October 5, 2017, seeking permission to use all of the Jane Doe Evidence in support of the Motion to Dismiss the Jane Doe Matter. All of this, of course, would have been avoided had Plaintiff simply consented to a logical modification of the Protective Order to permit the use of the Jane Doe Evidence in its entirety; the Motion to Dismiss would have been submitted to Your Honor long ago.

Contrary to Plaintiff's contention, and as noted above, Defendants have *not* engaged in discovery from the *Giuffre* Matter. Rather, the Defendants already possess the Jane Doe Evidence. The Court's consideration of the Jane Doe Evidence would promote judicial economy, as that evidence allows the Court to dispose of the *Jane Doe* Matter at the motion to dismiss stage. In its July 17 Order, the Court granted Defendants' request to seek leave to use the Jane Doe Evidence in the Motion to Dismiss and stayed the schedule for the Motion to Dismiss pending a decision by Judge Sweet. Accordingly, the July 17 Order provides that: "The time to make a motion to dismiss in this case is stayed until seven (7) days after the decision in the other case [*Giuffre* Matter] as to whether to grant an exception to the Protective Order." July 7 Order, p. 1.

Plaintiff's request for the deposition of Mr. Epstein is merely a rehash of the argument previously made to the Court and essentially an attempt for re-argument to modify the July 17 Order. The Court has already heard that argument and ruled in Defendants' favor. Moreover, Plaintiff has not provided any reason that the July 17 Order should be modified. The Jane Doe Evidence is dispositive of the Motion to Dismiss and there is no need for any deposition of Mr. Epstein or any other discovery to dispose of this matter in its entirety.

Hon. John G. Koeltl
October 12, 2017
Page 3

We respectfully submit that there is no reason to deviate from the July 17 Order. The motion for relief from the Protective Order has been submitted to Judge Sweet. A courtesy copy of the motion was provided to Your Honor on October 6, 2017. As Your Honor will note, a draft of Defendants' Motion to Dismiss, which discusses the Jane Doe Evidence in detail, is attached to the motion submitted to Judge Sweet. Once Judge Sweet rules on the motion, Defendants will submit their Motion to Dismiss within seven (7) days as provided for in the July 17 Order, so that the Motion to Dismiss can be filed in a manner consistent with Judge Sweet's ruling. The Court then can dispose of this matter in its entirety.

Respectfully submitted,


Michael C. Miller
Counsel for Defendants Jeffrey
Epstein and Lesley Groff 

cc: All counsel of record (via email)