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October 11, 2018

VIA CM/ECF

The Honorable Magistrate Judge Sarah Netburn
Thurgood Marshall Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *Sarah Ransome v. Epstein, et al.*
Case No.: 17-cv-00616 (JGK)

Dear Judge Netburn,

With less than two days' notice, Mr. Epstein's counsel unilaterally and unjustifiably seeks to cancel his deposition which has long been noticed by agreement for October 12, 2018. Plaintiff has worked for months to attempt to schedule this deposition, including agreeing to repeated postponements requested by Mr. Epstein's counsel. The October 12, 2018 date has been agreed to for weeks, and counsel for Plaintiff (David Boies) is already on his way to Florida to take the deposition.

Plaintiff first noticed Mr. Epstein's deposition for August 21, 2018. Mr. Epstein's counsel asserted that Mr. Epstein was not available on that date, and his deposition was then re-noticed for September 19, 2018. Defendants' counsel again requested a delay and on September 17, 2018, Plaintiff re-noticed the deposition for September 25, 2018, a date requested by Mr. Epstein's counsel. Plaintiff also agreed to hold the deposition in Florida as requested by Defendant Epstein, and to do so at his counsel's offices. Thereafter, even though the September 25 date had been agreed to at Mr. Epstein's request, Mr. Epstein's counsel again requested a delay in the scheduling of the deposition—this time to October 12, 2018. Accordingly, on September 26, 2018, Plaintiff re-noticed Defendant Epstein for the date and location requested by Defendant Epstein's counsel, Friday October 12, 2018 in West Palm Beach, Florida.

Nothing has changed since this deposition was agreed to and noticed last month. The cases Mr. Epstein's counsel cites are wholly inapposite to the facts of this case.

Judge Koeltl put the parties on an expedited discovery schedule at the hearing on August 7, 2018 and, in accordance with that schedule, Plaintiff immediately attempted to obtain the depositions of the named Defendants by serving notices on August 10, 2018. Plaintiff has made every effort to be exceedingly reasonable and patient with this deposition scheduling. Defendant Epstein has no



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valid justification for unilaterally terminating his deposition scheduled for Friday October 12, 2018. *See John Wiley & Sons, Inc. v. Book Dog Books*, 298 F.R.D. 145 (S.D.N.Y. 2014) (court sanctioning party under Rule 37(d) when the party failed to appear at the second day of deposition because the plaintiff refused to produce a witness the following week explaining that “it is well established that a party cannot unilaterally refuse to fulfill its discovery obligations as retaliation for another party’s discovery violation.”); *Fu v. Consolidated Edison Co. of New York*, 2018 WL 4373995 (S.D.N.Y. 2018)(court sanctioning plaintiff where defendant made multiple attempts to coordinate scheduling of plaintiff’s deposition and plaintiff failed to attend her deposition claiming that the defense had made threats against her holding “[w]here a party fails to appear for a deposition, Rule 37(d) requires cost shifting: ‘the court must require the party failing [to appear] to pay the reasonable expenses, including attorney’s fees cause by that failure.’”) (*quoting In re Bear Sterns Cos., Secs., Derivative, & Erisa Litig.*, 308 F.R.D. 113, 119 (S.D.N.Y. 2015).

Accordingly, Plaintiff requests that Defendant Epstein be sanctioned for this conduct, including by an award of attorney’s fees and costs, and that his deposition take place as noticed and scheduled by agreement tomorrow, October 12, 2018.

Sincerely,

/s/ Sigrid McCawley
Sigrid McCawley