

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

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JANE DOE,

Plaintiff,

**Docket No. 20-CV-02365**

-against-

DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as executors of the ESTATE OF JEFFREY E. EPSTEIN; NES, LLC; NINE EAST 71<sup>ST</sup> STREET CORPORATION; FINANCIAL TRUST COMPANY, INC.; NEW YORK STRATEGY GROUP, LLC; DARREN K. INDYKE, in his capacity as trustee of EPSTEIN INTERESTS; DARREN K. INDYKE, in his capacity as a representative of J. EPSTEIN VI FOUNDATION; J. EPSTEIN VIRGIN ISLANDS FOUNDATION, INC.; C.O.U.Q. FOUNDATION, INC.; GRATITUDE AMERICA LTD.; DARREN K. INDYKE and RICHARD D. KAHN, in their capacities as trustees of THE 1953 TRUST; SOUTHERN TRUST COMPANY, INC.; MAPLE, INC.; CYPRESS, INC.; LAUREL, INC.; SCI JEP; POPULAR, INC.; NAUTILUS, INC.; HBRK ASSOCIATES, INC.; JEJE, LLC; JEJE, INC.; PLAN D, LLC; HYPERION AIR, LLC; FREEDOM AIR INTERNATIONAL, INC.; ZORRO DEVELOPMENT CORP.; LSJE, LLC; L.S.J., LLC; ZORRO MANAGEMENT, LLC,

Defendants.

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S  
APPLICATION TO PROCEED ANONYMOUSLY**

KAISER SAURBORN & MAIR, P.C.  
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### **PRELIMINARY STATEMENT**

Plaintiff, Jane Doe, was during the course of a decade repeatedly and violently sexually assaulted by Jeffrey Epstein while being trafficked globally. Despite this unspeakable abuse, there are some who have mercilessly disparaged Jane Doe and even threatened her with death. If Jane Doe's name were to be made public, others would likely descend upon her with further death threats.

Jane Doe's Jeffrey Epstein story has never been told. Those who have followed the Epstein saga have no understanding of the constant and ritualistic abuse Jane Doe endured. As her therapist attests to in her affidavit, her psychological state is tenuous and severe. If she were to be required to proceed publicly it would likely further exacerbate her dangerous psychiatric condition.

The Second Circuit has articulated a multi factor test when deciding whether to permit a Jane Doe to proceed with a lawsuit anonymously. As discussed below, nearly all of the factors weigh in favor of permitting Jane Doe to proceed with her lawsuit anonymously.

Most of Epstein's other victims have proceeded in court anonymously. Further, Jane Doe has rejected countless media requests for interviews and TV specials because of her desire and need to proceed anonymously.

The granting of this motion provides Jane Doe the protection she needs while at the same time resulting in no disadvantage or prejudice to Defendants. Jane Doe's mental health and physical safety requires this protection. At the same time, Defendants retain their right and ability to fully and fairly defend against these claims.

**BACKGROUND FACTS**

The filed pleading avoids too much detail in order to protect Jane Doe’s identity which otherwise could be inferred from a detailed publicly filed presentation.

The basic narrative, however, is that Jane Doe was sex trafficked by Mr. Epstein for more than a decade during which time she was nearly always required to be sexually available to Mr. Epstein wherever he might be located. The sexual abuse included at times violence and very often occurred in the middle of the evening with Mr. Epstein crawling into Jane Doe’s bed and sexually abusing her.

Abbie Tuller’s affidavit makes clear that Jane Doe’s current psychiatric condition is severely debilitating and further opines that requiring her to proceed publicly would likely do grievous psychological harm. [See Abbie Tuller’s Affidavit attached as Exhibit “B” to Declaration of Daniel J. Kaiser [“Kaiser Affirm.”]

For reasons that if elaborated upon here may itself reveal her identity, there are some who would seek to disparage and perhaps threaten Jane Doe if she were to proceed publicly. These facts, if necessary, can be provided in confidence to the Court.

The facts of abuse included in the currently filed complaint are as follows:

Jeffrey Epstein specifically targeted underprivileged, emotionally vulnerable and/or economically disadvantaged young females exactly like Plaintiff to sexually molest and abuse. [Complaint ¶ 19 attached as Exhibit “A” to Kaiser Affirm.]

Epstein's continuous psychological and physical control over Jane Doe facilitated his sexual abuse of her on a relatively consistent basis for many years. [Id. ¶ 20]

The sexual abuse took many forms including Epstein's violent rape of Plaintiff. [Id. ¶ 21]

He would also enter plaintiff's room and get into her bed while she was sleeping and then fondle or penetrate her with his fingers. This occurred often and repeatedly. [Id. ¶ 22]

He often directed her to undress and pose in certain ways and/or touch him and herself while he masturbated. This occurred often and repeatedly. [Id. ¶ 23]

Epstein frequently directed Jane Doe to turn her head back during their sexual encounters, telling her that he did not want to see her face. [Id. ¶ 24]

Epstein also repeatedly required Jane Doe to bathe with him and perform oral sex on him. [Id. ¶ 25]

This occurred in New York, Palm Beach, New Mexico, London, Paris, on Epstein's private island, on Epstein's airplanes and other locations. [Id. ¶ 26]

Jane Doe was paid in large part to be sexually available to Epstein. [Id. ¶ 27]

In or about January or February 2012, Epstein grabbed Plaintiff by the hand while at his New York City Residence and took her to a small room on the third floor. It was a room with two chairs in it. He sat her down, pulled her pants down, covered her eyes, and used a vibrator on her. Epstein laughed afterwards. [Id. ¶ 28]

**ARGUMENT**

**THE MULTI FACTOR SECOND CIRCUIT TEST FOR PROCEEDING ANONYMOUSLY SUPPORTS JANE DOE'S RIGHT TO PROCEED ANONYMOUSLY**

In articulating its test for proceeding anonymously, the Second Circuit in *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185 (2<sup>nd</sup> Cir. 2008) noted:

Accordingly, we endorse the Ninth Circuit's formulation and hold that when determining whether a plaintiff may be allowed to maintain an action under a pseudonym, the plaintiff's interest in anonymity must be balanced against both the public interest in disclosure and any prejudice to the defendant.

\* \* \* \* \*

This balancing of interests entails the consideration of several factors that have been identified by our sister Circuits and the district courts in the Circuit. We note with approval the following factors.....

*Id. at 189*; *Jane Doe v. Kolko*, 242 FRD 193 (EDNY 2006) (court held Second Circuit test supported Plaintiff's right to proceed anonymously); *John Doe v. Colgate University*, 2016 WL 1448829 (S.D.N.Y. 2016) (court held that plaintiff would be permitted to proceed anonymously noting in particular that Defendant would suffer not prejudice)

The *Sealed Plaintiff* factors are discussed below.

**A. The litigation involves matters that are highly sensitive and personal in nature**

Here, the allegations could not be more sensitive or more of a personal nature. Jane Doe has been psychiatrically ravaged by Epstein's abuse. Very often, sexual assault victims do not come forward or in any manner or respect reveal themselves because sexual assault cases are so highly sensitive. Here, heap on top of that that the abuser was the notorious Jeffrey Epstein and revealing yourself as a victim becomes extraordinarily difficult.

**B. Whether identification poses a risk of retaliatory physical or mental harm to the party seeking to proceed anonymously**

As noted, there are many others involved in the Epstein story in various roles, who knowing nearly nothing of Jane Doe's story have disparaged and insulted her premised upon false facts and a lack of any understanding of Jane Doe's own sexual abuse. She has also received death threats in the past, which have stopped her from coming forward with details of her abuse publicly.

A requirement that Jane Doe proceed publicly would unnecessarily expose her to not only potentially life threatening physical abuse from this group of persons, but the psychological consequences for Jane could be profound.

**C. Whether the identification process poses other harms**

Jane Doe would likely be damaged psychologically even if not from the direct result of retaliation. Her therapist's affidavit is clear on that point.

**D. Whether the Plaintiff is particularly vulnerable to the harms resulting from disclosure**

She certainly is. Her current psychological state is precarious and any small additional stress could result in catastrophic consequences. She also has no way to physically protect herself should anyone try to follow through with their death threats.

**E. Whether the suit is challenging the actions of the government or private parties**

This is the only factor that weighs in slightly favor of proceeding publicly.

**F. Whether the defendant would be prejudiced by permitting Plaintiff to proceed anonymously**

Defendants would suffer no prejudice. Defendants know Jane Doe's identity and will have the ability to obtain any and all discovery to which they are entitled. Defendants' ability to defend this action is not compromised in any respect. In numerous other lawsuits against Epstein by sexual assault and trafficking victims, as well as other sex trafficking cases, they proceeded anonymously without any difficulty. *See, Doe v. Epstein*, 2008 WL 11332056 (S.D.Fl. 2008) (court held Jane Doe could proceed anonymously); *Doe v. Steele*, 2020 WL 6712214 (S.D.Cal) (court held that sex trafficking victim would be permitted to proceed anonymously); *A.B. v. Hilton Worldwide Holdings*, 484 F.Supp.3d 921 (D.Oregon 2020) ( court held that sex trafficking victim would be permitted to proceed anonymously); *S.Y. v. Uomini & Kudai, LLC*, 2021 WL 3054871 (M.D.Fl. 2021) (court held that sex trafficking victim would be permitted to proceed anonymously).

**G. Whether plaintiff's identity has thus far been kept confidential**

Jane Doe has remained confidential from the beginning of this litigation which underscores her desire and need for continued confidentiality. Also, Jane Doe has fielded through countless requests for interviews from media outlets and has turned all of them down consistent with her desire to remain anonymous.

**H. Whether the public's interest is furthered by requiring disclosure of Plaintiff's identity**

There is no public interest that is advanced through public disclosure. The Epstein story is well known and has been extensively covered in the media. Generally, Epstein victims have been permitted to proceed anonymously undercutting any argument that the public's interest is compromised.

**I. The public's interest in knowing the plaintiff's identity based purely on the legal nature of the issues presented**

No legal issues present that elevate the public's interest in disclosure. This matter is a straightforward sex trafficking case the facts of which do not present novel legal issues for resolution by this Court.

The central factual dispute as to whether Mr. Epstein sexually abused Jane Doe, including raping her, and whether she was trafficked in connection with that abuse are resolved without and novel and/or first impression legal rulings.

**J. Whether there are any alternative mechanism for protecting the plaintiff's Identity**

There are no alternatives to permitting Jane Doe to proceed anonymously that can protect Jane Doe.

**CONCLUSION**

For all of the foregoing reasons, Plaintiff respectfully requests that her motion to be permitted to proceed anonymously be granted.

Dated: New York, New York  
July 30, 2021

**Kaiser Saurborn & Mair, P.C.**



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