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Mary Grace W. Metcalfe
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July 16, 2020

VIA ECF

The Honorable Debra C. Freeman
United States District Court
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: *Jane Doe v. Darren K. Indyke and Richard D. Kahn, in their capacities as executors of the Estate of Jefferey E. Epstein, and Ghislaine Maxwell, No. 1:20-cv-00484-JGK-DCF*

Dear Judge Freeman:

We represent Defendants Darren K. Indyke and Richard D. Kahn, as Co-Executors of the Estate of Jefferey E. Epstein (the "Co-Executors"), in the above-referenced action. We write in response to the letter counsel for Plaintiff Jane Doe, Robert Glassman, filed yesterday afternoon (Doc. 54). Mr. Glassman's letter is, as counsel for Ms. Maxwell stated in an email yesterday, "very premature." It also misrepresents what occurred.

As evidenced by the email chain submitted herewith as Exhibit A, last Friday, July 10, 2020, counsel for Co-Defendant Ghislaine Maxwell, who had only appeared in this action a day earlier, asked the parties to meet and confer, among other things, to set new dates for Mr. Indyke's deposition and all other discovery dates and deadlines set before her appearance.

Moreover, and as we promptly advised Mr. Glassman, shortly after we agreed to commence our rolling document production earlier this week, we realized that the Parties have yet to agree upon a confidentiality order, which must occur before we produce documents that refer to the Plaintiff, who filed this case anonymously, by her real name. That is for Plaintiff's benefit. The terms of the confidentiality order will also be discussed during the Parties' upcoming meet and confer call.

As indicated in the attached email chain, rather than discuss the confidentiality order or advise us that he thought we were mistaken about counsel for Ms. Maxwell's request, Mr. Glassman instead chose to immediately burden the Court by filing his letter

shortly before the parties are supposed to speak about discovery. In any event, counsel for Ms. Maxwell has since then expressly confirmed that we were correct in our understanding, stating: “That is correct. I understand that we were having a call tomorrow to discuss a number of scheduling issues, including scheduling depositions ... Let me know if you all still want to have a discussion or not, **given Mr. Glassman’s very premature letter to the court.**” (See Ex. A at p. 1. (emphasis added).)

As for Mr. Glassman’s contention that the Co-Executors are violating their discovery obligations, it bears mentioning that he filed his letter only after weeks of our attempts to have him remedy various discovery deficiencies in Plaintiff’s discovery responses. We have sent Mr. Glassman letters detailing Plaintiff’s discovery deficiencies. By contrast, Mr. Glassman has not met and conferred with us about many of the issues he raises in his letter to Your Honor. We do not intend to burden Your Honor with any of these discovery issues if they can be resolved among the parties. However, the meet-and-confer process is far from complete now that Ms. Maxwell has appeared in this action.

Based on the foregoing, Counsel for the Co-Executors requests that the Parties be given the opportunity to finalize a confidentiality order and new discovery schedule that is agreeable to Ms. Maxwell’s counsel, produce those documents that are not in dispute (something that can be done promptly after entry into the confidentiality order), and finish meeting and conferring so as to narrow the remaining issues in dispute as much as possible before seeking the Court’s assistance.

Respectfully submitted,

s/ Mary Grace W. Metcalfe
Mary Grace W. Metcalfe

From: Moskowitz, Bennet J.
Sent: Wednesday, July 15, 2020 5:24 PM
To: Laura Menninger
Cc: Nathan Werksman; Claudia Lomeli; Robert Glassman;
daniel.weiner@hugheshubbard.com; Metcalfe, Mary Grace; Keilah Betts; Kevin Boyle
Subject: Re: Jane Doe (1:20-cv-00484-JGK-DCF)

Ms. Menninger:

Thanks for confirming our understanding. As we previously advised Robert, the parties also need to get on the same page about a confidentiality agreement before we start productions; that was clear from our written discovery responses to him. We thought that would be discussed on Friday as well. We are still available to meet and confer as discussed, and will take up Robert's premature, erroneous letter with Judge Freeman unless he immediately withdraws it.

Best,
Bennet

On Jul 15, 2020, at 5:17 PM, Laura Menninger <lmenninger@hmflaw.com> wrote:

EXTERNAL SENDER

That is correct. I understand that we were having a call tomorrow to discuss a number of scheduling issues, including scheduling depositions. I said that I needed to see the discovery and disclosures produced to date, prior to that call. I have yet to receive any discovery produced by either side.

I now have other meetings scheduled at 10 am, 1 pm and 4:30 pm on Friday (all MST). Let me know if you all still want to have a discussion or not, given Mr. Glassman's very premature letter to the court. If so, please send me whatever docs have been produced to date.

I believe that we need to compile a deposition schedule for all witnesses that the parties intend to depose at one time, so Mr. Glassman I assume you will be providing dates for your client's deposition.

Laura A. Menninger | Partner
Haddon, Morgan & Foreman, P.C.
150 E. 10th Avenue | Denver, CO 80203
+1 303 831 7364 (Office)
lmenninger@hmflaw.com

From: Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>
Sent: Wednesday, July 15, 2020 3:14 PM
To: Laura Menninger <lmenninger@hmflaw.com>
Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>; Robert Glassman <glassman@psblaw.com>; daniel.weiner@hugheshubbard.com; Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>; Kevin Boyle <Boyle@psblaw.com>
Subject: Re: Jane Doe (1:20-cv-00484-JGK-DCF)

Hi Laura,

You may have seen that Robert just filed a letter to Judge Freeman claiming, among other things, that we unilaterally canceled Mr. Indyke's deposition to be obstructionist. Our understanding is that you requested we speak to, among other things, set new dates for that and all other discovery dates and deadlines which were set before you appeared in this action. Indeed, that is why we are supposed to speak on Friday. Is my understanding correct?

Thank you,
Bennet

Bennet J. Moskowitz*

Partner

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*Licensed to practice law in New York and Connecticut

On Jul 15, 2020, at 2:34 AM, Robert Glassman <glassman@psblaw.com> wrote:

EXTERNAL SENDER

Friday works for us too. I am still waiting on a response from Ms. Menninger concerning the depositions I emailed her about on July 8. I would also like to add to the agenda for Friday scheduling the deposition of Ms. Maxwell.

Robert Glassman, Esq.

Panish Shea & Boyle LLP

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Los Angeles, CA 90025

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From: Moskowitz, Bennet J. [<mailto:Bennet.Moskowitz@troutman.com>]

Sent: Tuesday, July 14, 2020 1:56 PM

To: Laura Menninger <lmessenger@hmflaw.com>

Cc: Robert Glassman <glassman@psblaw.com>; Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli

<lomeli@psblaw.com>; daniel.weiner@hugheshubbard.com; Metcalfe, Mary Grace

<MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>

Subject: Re: Jane Doe (1:20-cv-00484-JGK-DCF)

Friday works for us to speak. We sent our discovery materials yesterday. In the meantime, we will mark Mr. Indyke's deposition off the calendar subject to whatever new schedule we all reach.

Bennet J. Moskowitz*

Partner

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On Jul 13, 2020, at 12:19 PM, Laura Menninger <lmessenger@hmflaw.com> wrote:

EXTERNAL SENDER

I am free Wednesday afternoon and all day Friday, presuming I have received the current discovery and disclosures by then.

Laura A. Menninger | Partner

Haddon, Morgan & Foreman, P.C.

150 E. 10th Avenue | Denver, CO 80203

+1 303 831 7364 (Office)

lmessenger@hmflaw.com

From: Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>

Sent: Monday, July 13, 2020 10:18 AM

To: Laura Menninger <lmessenger@hmflaw.com>; Robert Glassman <glassman@psblaw.com>

Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>;

daniel.weiner@hugheshubbard.com; Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>

Subject: Re: Jane Doe (1:20-cv-00484-JGK-DCF)

Today we will send you discovery served by or to the Co-Executors and responses thereto. When can we all speak?

Thanks,
Bennet

Bennet J. Moskowitz*

Partner

troutman pepper

Direct: 212.704.6087

bennet.moskowitz@troutman.com

*Licensed to practice law in New York and Connecticut

On Jul 13, 2020, at 12:07 PM, Laura Menninger <lmenninger@hmflaw.com> wrote:

EXTERNAL SENDER

I did not yet receive the disclosures or discovery. When can I expect those?

Thank you,
Laura

Laura A. Menninger | Partner

Haddon, Morgan & Foreman, P.C.

150 E. 10th Avenue | Denver, CO 80203

+1 303 831 7364 (Office)

lmenninger@hmflaw.com

From: Robert Glassman <glassman@psblaw.com>

Sent: Friday, July 10, 2020 10:03 AM

To: Laura Menninger <lmenninger@hmflaw.com>; 'Moskowitz, Bennet J.' <Bennet.Moskowitz@troutman.com>

Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>;

'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Metcalfe, Mary Grace

<MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>

Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

Bennet, yes, the depositions that were scheduled yesterday are, as previously advised, being continued, and the doc requests that went along with them are withdrawn for now.

Laura, we will get you the disclosures and discovery both propounded and answered thus far. Free to discuss the scheduling order next week.

Thanks.

Robert Glassman, Esq.

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From: Laura Menninger [<mailto:lmessenger@hmflaw.com>]
Sent: Friday, July 10, 2020 8:53 AM
To: 'Moskowitz, Bennet J.' <Bennet.Moskowitz@troutman.com>; Robert Glassman <glassman@psblaw.com>
Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>; 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>
Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

Counsel –

Given my appearance in the case, please provide me with your R. 26 disclosures, any discovery requests that have been propounded in the matter, and any responses thereto.

I will need to confer with you next week about my anticipated request for relief from the scheduling order to the extent it contemplated deadlines that passed or are soon approaching, all scheduled prior to my client's service in this case.

Thank you,
Laura

Laura A. Menninger | Partner
Haddon, Morgan & Foreman, P.C.
150 E. 10th Avenue | Denver, CO 80203
+1 303 831 7364 (Office)
lmessenger@hmflaw.com

From: Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>
Sent: Friday, July 10, 2020 7:31 AM
To: Robert Glassman <glassman@psblaw.com>
Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>; 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>; Laura Menninger <lmessenger@hmflaw.com>
Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

Robert,

Again, please confirm you are withdrawing the document requests in the deposition notices. We do not want to have to burden Judge Freeman with this issue.

I have added Laura Menninger to this email chain given her appearance in this action.

Thank you,
Bennet

Bennet J. Moskowitz*

Partner

troutman pepper

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*Licensed to practice law in New York and Connecticut

From: Moskowitz, Bennet J.

Sent: Wednesday, July 8, 2020 3:00 PM

To: 'Robert Glassman' <glassman@psblaw.com>

Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>; 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>

Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

We did not receive anything. Also, please confirm you are withdrawing the document requests in the deposition notices.

Bennet J. Moskowitz*

Partner

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bennet.moskowitz@troutman.com

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From: Robert Glassman <glassman@psblaw.com>

Sent: Wednesday, July 8, 2020 2:57 PM

To: Metcalfe, Mary Grace <MaryGrace.Metcalfe@troutman.com>; Keilah Betts <betts@psblaw.com>; 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>

Cc: Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>

Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

EXTERNAL SENDER

Mary Grace, supplemental responses were served on you and Bennet yesterday by email per our agreement. Looks like they were sent at 5:05 PST. Let us know if you need us to re-send them to you.

As we discussed on our call, the depositions set for tomorrow were taken off calendar and are being rescheduled at a later date.

Robert Glassman, Esq.
Panish Shea & Boyle LLP

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From: Metcalfe, Mary Grace [<mailto:MaryGrace.Metcalfe@troutman.com>]
Sent: Wednesday, July 08, 2020 11:31 AM
To: Keilah Betts <betts@psblaw.com>; 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>
Cc: Robert Glassman <glassman@psblaw.com>; Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>
Subject: RE: Jane Doe (1:20-cv-00484-JGK-DCF)

Robert,

We have reviewed the subpoena below. It is accompanied a notice of deposition, similar to those issued alongside the subpoenas you sent us in April. As we noted then, such notices of deposition are improper. Please let us know if you will withdraw this one as you did its predecessors.

Furthermore, you have included document requests without specifying a response date. Please clarify that point.

Finally, you indicated last week that we could expect to receive supplemental discovery responses addressing the concerns we raised in our letter last month. We have yet to receive these responses. Please send them immediately.

Thank you,

Mary Grace W. Metcalfe

Associate

troutman pepper

Direct: 212.704.6029 | Mobile: 425.984.4165
marygrace.metcalfe@troutman.com

From: Keilah Betts <betts@psblaw.com>
Sent: Monday, June 15, 2020 4:40 PM
To: 'daniel.weiner@hugheshubbard.com' <daniel.weiner@hugheshubbard.com>; Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>
Cc: Robert Glassman <glassman@psblaw.com>; Nathan Werksman <werksman@psblaw.com>; Claudia Lomeli <lomeli@psblaw.com>
Subject: Jane Doe (1:20-cv-00484-JGK-DCF)
Importance: High

EXTERNAL SENDER

Counsel – Attached please find the Deposition Notice and Subpoena for Darren Indyke.

Mr. Weiner – Per a previous conversation with Attorney Werksman, you are willing to accept service of the subpoena on behalf of your client, Mr. Darren Indyke. Please acknowledge receipt of this e-mail. Thank you

Keilah Betts
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Los Angeles, CA 90025
Tel: (310) 477-1700
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