

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION
CASE NO. 08-80119-CIV-MARRA

4	JANE DOE, et al.,	WEST PALM BEACH, FLORIDA
5	Plaintiffs,	JUNE 12, 2009
6	vs.	
7	JEFFREY EPSTEIN,	
8	Defendant.	

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11 TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE KENNETH A. MARRA,
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

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REPORTED BY:

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1 THE COURT: We are here in the various Doe vs. Epstein
2 cases.

3 May I have counsel state their appearances?

4 MR. HOROWITZ: Adam Horowitz, counsel for plaintiffs
5 Jane 2 through Jane Doe 7.

6 THE COURT: Good morning.

7 MR. EDWARDS: Brad Edwards, counsel for plaintiff Jane
8 Doe.

9 THE COURT: Good morning.

10 MR. GARCIA: Good morning, Your Honor. Sid Garcia for
11 Jane Doe II.

12 THE COURT: Good morning.

13 MR. WILLITS: Good morning, Your Honor. Richard
14 Willits, here on behalf of the plaintiff C.M.A..

15 THE COURT: Good morning.

16 MS. EZELL: Good morning, Your Honor. I'm Katherine
17 Ezell from Podhurst Orseck, here with Amy Adderly and Susan
18 Bennett, and I believe my partner, Bob Josefsberg, is going to
19 appear by telephone.

20 THE COURT: Mr. Josefsberg, are you there?

21 MR. JOSEFSBERG: I am, Your Honor.

22 THE COURT: Good morning.

23 MR. JOSEFSBERG: Good morning.

24 THE COURT: All right. Do we have all the plaintiffs
25 stated their appearances? Okay.

1 Defense?

2 MR. CRITTON: Your Honor, Robert Critton on behalf of
3 Mr. Epstein, and my partner, Michael Burman.

4 THE COURT: Good morning.

5 MR. GOLDBERGER: Good morning, Your Honor. Jack
6 Goldberger on behalf of Mr. Epstein.

7 THE COURT: I see we have some representatives from
8 the United States Attorney's Office here.

9 MS. [REDACTED]: Good morning, Your Honor. [REDACTED]
10 [REDACTED] for the U.S. Attorney's office.

11 THE COURT: Good morning.

12 Who else do we have on the phone?

13 MR. CRITTON: Your Honor, we have two members of the
14 defense team are on the phone, also.

15 THE COURT: Who do we have on the phone?

16 MR. WEINBERG: Martin Weinberg. Good morning, Your
17 Honor.

18 MR. LEFKOWITZ: Jay Lefkowitz. Good morning, Your
19 Honor.

20 THE COURT: Good morning.

21 I scheduled this hearing for very limited issues
22 which, as you all know, there's been a motion by Mr. Epstein to
23 stay the civil proceedings against him. The one issue I have
24 concern about is Mr. Epstein's contention or assertion that by
25 defending against the allegations in the civil proceedings, he

1 may expose himself to an allegation by the United States in the
2 non-prosecution agreement that he's violated that agreement and
3 therefore would subject himself to potential federal charges.

4 I had asked for some briefing on this. I asked the
5 United States to present its position to me. And I received
6 the Government's written response, which I frankly didn't find
7 very helpful. And I still am not sure I understand what the
8 Government's position is on it.

9 So first let me hear from Mr. Epstein's attorneys as
10 to what do you believe the concern is. I don't believe the
11 non-prosecution agreement has ever been filed in this Court; am
12 I correct?

13 MR. CRITTON: To my knowledge, Your Honor, it has not.

14 THE COURT: So I don't believe I've ever seen the
15 entire agreement. I've seen portions of it.

16 MR. EDWARDS: Your Honor, I believe that it was filed
17 under Jane Doe 1 and 2 vs. United States of America, case under
18 seal in your court.

19 THE COURT: Okay.

20 MR. EDWARDS: In a separate case.

21 THE COURT: In that case, okay. Was it actually filed
22 in that case?

23 MR. EDWARDS: I filed it under seal.

24 THE COURT: In any event, what's Mr. Epstein's concern
25 about if you defend the civil actions, you're going to expose

1 yourself to a claim for a breach by the United States of the
2 non-prosecution agreement?

3 MR. CRITTON: Robert Critton.

4 Your Honor, our position on this case is, I'd say is
5 somewhat different. When this issue originally came before the
6 Court, as you are aware prior to my firm's involvement in the
7 case, there was a motion filed on behalf of Mr. Epstein seeking
8 a stay. And I think it was in Jane Doe 102 and then
9 subsequently Jane Doe 2 through 5 because all of those cases
10 were filed on or about the same time.

11 And at that time the Court looked at the issue and it
12 was based upon a statutory provision at that time. And the
13 Court said I don't find that it's applicable, or for whatever
14 reason I think the Court said I don't consider that to be a
15 pending proceeding or a proceeding at that particular time.

16 In that same order, which was in Jane Doe 2, I
17 believe it's -- not I believe, I know it's docket entry 33, the
18 Court also went on to talk about at that particular point in
19 time dealt with the issue of the discretionary stay.

20 And the Court said at that time, I'm paraphrasing, but
21 the Court also does not believe a discretionary stay is
22 warranted. And what the Court went on to say is that if
23 defendant does not breach the agreement, then he should have no
24 concerns regarding his Fifth Amendment right against
25 self-incrimination.

1 The fact that the U.S. Attorney or other law
2 enforcement officials may object to some discovery in these
3 civil cases is not in and of itself a reason to stay the civil
4 litigation, so that any such issue shall be resolved as they
5 arise in the course of the litigation.

6 And I would respectfully submit to the Court that the
7 position that the Government has taken in its most recent
8 filings changes the playing field dramatically. Because what
9 the Government in essence has said as distinct from the U.S.
10 saying is, well, we object to some discovery, or we may object
11 to some discovery in the civil cases.

12 What they have, in essence, said is if you take some
13 action, Mr. Epstein, that we believe unilaterally, and this is
14 on pages 13 and 14 of their pleading or of their response memo
15 to the Court's inquiry, they say if Mr. Epstein breaches the
16 agreement. They said it's basically like a contract, and if
17 one side breaches, the other side can sue.

18 In this instance what the Government will do is if we
19 believe that Mr. Epstein has breached the agreement, we'll
20 indict him. We will indict him. And his remedy under that
21 circumstance, which is an incredible and catastrophic catch 22
22 is, we'll indict him and then he can move to dismiss. That's a
23 great option.

24 In this particular instance my mandate in defending --
25 and that's a dramatic change in the Government's position,

1 because the Government is not saying, and the Court was pretty
2 specific in what you asked the Government for in its response
3 is, in essence, and it's the same question in a more limited
4 fashion you're posing today is whether Mr. Epstein's defense of
5 the civil action violates the NPA agreement, the
6 non-prosecution agreement, between the U.S. and Mr. Epstein.

7 And the Government refuses to answer that question.
8 They won't come out and say, yes, it will, or no, it won't.
9 What they're doing is they want to sit on the sideline, and as
10 their papers suggest is, they want us to lay in wait and that
11 if, in fact, they believe he violates a provision of the NPA as
12 it relates to the defense of this case or these multitude of
13 cases, then they can come in and indict him -- no notice, no
14 opportunity to cure.

15 We don't think that's what the NPA says, but that's
16 certainly what their papers say. We'll indict him, no notice,
17 no opportunity to cure. We will indict him, and his remedy
18 under that circumstance is that he can move to dismiss the
19 indictment.

20 Well, that's great except Mr. Epstein, his mandate to
21 me and I know his mandate to his criminal lawyers, is: Make
22 certain I don't do anything, in particular in these civil cases
23 that would in any way suggest that I am in willful violation of
24 the NPA.

25 Now, in the Court's prior ruling in the docket entry

1 33, certainly some aspects of the NPA are within Mr. Epstein's
2 control. There's no question about that. But aspects that
3 relate to the defense of these cases, either in terms of the
4 civil lawyers who are defending these, I think there's 12 or 13
5 pending cases in front of you, there's another four cases in
6 the state court, is the risk is substantial, it's real, and it
7 presents a chilling effect for the civil lawyers in moving
8 forward to determine whether or not we're taking some action
9 that in some way may be a violation of the NPA.

10 And the Government's, again, refusal or non-position
11 with regard to past acts that have been taken in the civil case
12 with regard to the defense or future acts that we may take with
13 regard to these contested litigation casts an extraordinary
14 cloud of doubt and uncertainty and fear that the defense of
15 these cases could jeopardize Mr. Epstein and put him in the
16 irreparable position of violating the NPA and then subsequently
17 being indicted.

18 In this particular instance, again, Mr. Epstein has no
19 intention of willfully violating the NPA, but it's of great
20 concern to him. And I'd say with the position that the
21 Government has taken, no notice, no cure period, no opportunity
22 to discuss. Again, we think that's not what the NPA provides,
23 it's not what the deal was between the two contracting parties,
24 the United States and Mr. Epstein. But that's clearly what
25 their papers say under the circumstances, and it would create

1 this irreparable harm to Mr. Epstein under the circumstances.

2 In essence, we're left with a catch 22 in defending
3 the civil cases. We have a mandate to take no action, to take
4 any action which may be deemed to be a violation of the NPA,
5 either in the past or in the future, which would in any way
6 risk Mr. Epstein being indicted by the United States.

7 He has the clear risk of an indictment based upon the
8 papers that the Government filed. It's real, it's not remote,
9 and it's not speculative. It chills the action of the defense
10 in this instance of both Mr. Epstein and his attorneys in
11 trying to defend these cases and decide under the circumstances
12 can we do this, can we take this position with regard to
13 depositions, can we take this legal position with regard to
14 motions to dismiss, with regard to responses, with regard to
15 replies?

16 And we send out paper discovery. Is this in some way
17 if we contact someone who may be an associate of these
18 individuals as part of our investigation, is that potentially
19 in any way a violation of the NPA? Again, we don't think so.

20 And, obviously, again, my direction has been from my
21 client: Don't take any action that would result in me being
22 indicted under the NPA. Well, that's great. But, generally,
23 civil lawyers or civil lawyers in defending a personal injury
24 case or a tort case, which is exactly what these are, and from
25 a practical standpoint, we use various tools to do discovery.

1 They're standard. They're specific. They're very temporary.
2 Very typical.

3 But in this instance, as the Court knows, things are
4 not typical with regard to this case in any way, shape or form.
5 We can't even serve subpoenas, there's objections and there's
6 -- we can't even serve objections to third parties so we can
7 obtain documents unless we have to filter it through the
8 plaintiffs' attorneys. They won't allow us to use their
9 clients' names, even in a subpoena that would never be filed in
10 the court.

11 How do we do a deposition of a third party? We wanted
12 to take the deposition of Jane Doe 4. Well, who is she? Well,
13 we can't tell you that. Well, who's the defendant? Well, we
14 can't tell you that because nobody wants anybody to know
15 anything about the case. They want to present it strictly
16 through rose-colored glasses.

17 And in this particular instance, we simply can't
18 defend this case or take certain action with the spector
19 hanging over us that, in fact, the Government may deem it to be
20 a violation of the NPA, because very clearly in their response
21 papers, they don't say. They say we don't take the position,
22 and then they take a substantial position is we think there's
23 not all that substantial factors that would entitle him to a
24 stay.

25 Except for the one major issue which the Court posed

1 in the question is, is can he defend these cases? That's what
2 I really want to know. Can he defend these cases and, in
3 essence, what he has done in the past or what his defense team
4 has done in the past and what they're going to do in the
5 future, can you give him, Epstein, assurances that the
6 Government under this situation, whatever he does, based on
7 advice of counsel, that that cannot be a willful violation of
8 the NPA, which they can -- they, the U.S. -- can then turn
9 around and say that's a violation of the agreement and,
10 therefore, we're going to go proceed to indict you under the
11 circumstances.

12 Our position is, Your Honor, is that the U.S. has now
13 cavalierly suggested that, as they did in picking up on the
14 court's docket entry or prior order, is, look, compliance with
15 the NPA is solely up to Mr. Epstein. In this type of balance
16 of equities, it doesn't speak in favor of a stay.

17 Well, that's great. And maybe that was the position
18 back in '08, on August 5th of '08, when the issue came up in
19 front of the Court with regard to the initial stay.

20 But the Government's papers under these circumstances
21 suggested a very different set of circumstances. Their own
22 unilateral, which is the issue that we argued in the motion for
23 stay, is that the Government's position is that we can
24 unilaterally indict this man if we think he's breached the NPA.

25 We don't think that's right, but we have no buffer

1 between us and the Government. They'll say, and as the Court
2 knows, the Government has substantial power. The Government
3 does what it wants. Most of the time hopefully they're right.
4 Sometimes they make mistakes.

5 But in this particular instance, my client has rights.
6 We think that there's notice provisions, we think there's cure
7 provisions under the NPA. That's not what their paper says
8 under the circumstances.

9 And what we'd like to know from the Government, and
10 maybe the answer is basically what the Court asks is, let the
11 Government come forward today and say, based on the knowledge
12 that we have, or as of today's date, June 12th, 2009, we, the
13 Government, agree that there is no set of circumstances, not
14 that we're not aware of, but as of today's date, there is
15 nothing that exists that would be a violation of the NPA.

16 THE COURT: Well, that's way beyond what I'm
17 interested in. I don't know what Mr. Epstein may have done
18 outside the context of defending this case that may constitute
19 a violation. And if he has done something outside the context
20 of defending this case that's a violation, I don't care.
21 That's between the United States and Mr. Epstein.

22 I'm only concerned about whether anything he does in
23 defending these civil actions is going to be a violation of the
24 non-prosecution agreement. If he has done something else, it's
25 none of my business, and I don't care, and I'm not going to

1 even ask the Government to give you an assurance that he hasn't
2 done anything that might have violated the agreement up till
3 today. I'm only interested in defending these civil actions.

4 MR. CRITTON: Then I would respectfully submit to the
5 Court that the Government be asked in that limited context, are
6 they as of today, whether there were or not, but as of today is
7 there anything that has been done or will you take the
8 position, the United States, that any position that Mr. Epstein
9 has taken with regard to defending these civil cases is in any
10 way a violation of the NPA?

11 THE COURT: Well, I'm not sure what they're going to
12 say, but that might -- that cures the problem up to this point.
13 But then we have to deal with what's going to happen from here
14 on in. And that's another issue that we have to deal with.

15 So I understand your position.

16 But has anyone suggested to you on behalf of the
17 United States that there is something that you've done in
18 defending this case that they believe may or could be construed
19 as a violation of the non-prosecution agreement? Has anyone
20 pointed to anything that you've done? For example, the fact
21 that you've wanted to take their -- I don't know if you've
22 noticed depositions or not in this case, but if you've sent
23 notice of taking deposition, if you sent requests for
24 production of documents, if you sent interrogatories, if you
25 issued third party subpoenas? Is anything you've done thus far

1 in the context of this case been brought to your attention as a
2 potential violation?

3 MR. CRITTON: I have received no notification nor am I
4 aware that we've received any notification of any action that
5 we have taken today. As I suggested to the Court, I don't know
6 when they've done or not. And in their papers they suggested,
7 well, we don't know everything that's gone on in the civil
8 litigation.

9 But from a practical standpoint, it was a number of
10 comments that were made in their papers is, we can indict, we
11 can see if there's a breach.

12 Judge, I may have some --

13 THE COURT: Before you go on.

14 MR. CRITTON: I'm sorry.

15 THE COURT: You've focused a great deal on the
16 Government's response to my inquiry as supporting your position
17 that you're in jeopardy. But you've made the suggestion, even
18 before this brief was filed, that defending the case was going
19 to potentially result in an assertion or allegation that you
20 breached the non-prosecution agreement.

21 So what was it that caused you to make that initial
22 assertion? Because that's what caught my attention, was not --
23 this brief that the Government has filed was in response to
24 something that you filed initially in your most recent motion
25 for a stay which raised the issue.

1 So what was it that gave you some concern to even
2 raise the issue that defending this case is going to constitute
3 a breach?

4 MR. CRITTON: Because there are other instances where
5 counsel other than myself, not in the civil aspects, where
6 allegations have been made and letters have been sent by the
7 United States suggesting that there's been a violation of the
8 NPA. And under those circumstances, some notification was
9 provided.

10 THE COURT: Did it have anything to do with defending
11 the civil actions?

12 MR. CRITTON: It did not.

13 THE COURT: So then why was that issue raised by you
14 in the first instance?

15 MR. CRITTON: Because of the prospect that the
16 defendant could take, that the U.S. would take the position
17 under the circumstances that a position that we took with
18 regard to the contested litigation may well impact, that the
19 Government may have a very different view of what the
20 interpretation of the agreement is.

21 And as an example is a number of the parties, and I
22 know the Court doesn't want to get into a discussion, the issue
23 is, is under 2255 is that from the defendant's perspective the
24 deal that was cut on that, it was a very specific deal. It
25 dealt with both consensual and contested litigation. It dealt

1 with a secret list of individuals who we had no idea who was on
2 the list, and a commitment that he would under certain
3 circumstances be required to pay a minimum amount of damages,
4 which our position is under 2255 based upon the statute that
5 was in effect at the time, a \$50,000 as to anyone who wanted --
6 who came forward who was on the list and met certain criteria.

7 The position that now has been asserted by a number of
8 the plaintiffs under the circumstances, and it's been pled, and
9 actually a number of the complainants is, is Epstein agreed,
10 and they cite to a letter that was sent by Ms. [REDACTED] from
11 the Government, that says he has to plead guilty or he can't
12 contest liability. That may be true under very, very limited
13 or specific circumstances.

14 But what the plaintiffs have done in a number of the
15 cases, and these are pending motions, is they've said is, well,
16 we think C.M.A. cases is a good example, they've pled 30
17 separate counts of 2255 alleged violations. And they're saying
18 under the circumstances is, therefore, we have 2255 violations,
19 there's 30 of them, so 30 times 150, or should be, or whether
20 it's 150, that's the amount of money that we want, so maybe \$15
21 million, or whatever the number is.

22 Some of the other plaintiffs' lawyers have been even
23 more creative. They've said is, well, we'll agree that it's
24 only one cause of action but that each number of violations;
25 that is, if 20 alleged incidents occurred, that we would

1 consider to be, or that we will argue are violations, then we
2 can take 20 times the 50, or the 150, depending on which
3 statute is applicable.

4 So the Government under that set of circumstance could
5 say, and, again, this is one of the reasons that we raised it,
6 they could say, look, our deal with you was that you couldn't
7 contest liability, that you were waiving liability, or your
8 ability to contest an enumerated offense under 2255.

9 Again, part of the deal was as to an enumerated
10 offense. Okay. Well, what's that mean? What did he plead to?
11 Well, he really didn't plead to anything, which is another
12 issue associated with the 2255. But if the Government comes in
13 and says, no, wait a minute, our position was, is that you're
14 stuck with 2255 and the language within the NPA. And,
15 therefore, whether it's an offense or whether it's multiple
16 offenses or violations or each one represents an individual
17 cause of action, if the Government takes the position that's
18 adverse to what we think the clear reading of the agreement was
19 under those circumstances, they could claim a violation.

20 And as a result -- and that's one of the reasons we
21 put -- that was the most glaring one to us, so we raised that
22 issue. And then when the Government's response came with
23 regard to, is we can just proceed to indict if we think that
24 there's been a breach of the agreement.

25 That puts us at substantial risk and chills our

1 ability to move forward. Thank you, Your Honor.

2 THE COURT: Thank you. Who wants to be heard from the
3 plaintiffs first?

4 Is there any plaintiff's attorney who is contending
5 that the defense of these civil actions by Mr. Epstein is going
6 to constitute a breach of the non-prosecution agreement?

7 MR. JOSEFSBERG: Your Honor, this is Bob Josefsberg.
8 May I speak?

9 THE COURT: Yes, sir.

10 MR. JOSEFSBERG: We're not quite confident that any
11 breaches of any agreement, which were third-party
12 beneficiaries, should be resolved by you. We're not saying it
13 shouldn't. But we have not raised any breach of agreement. We
14 think that is between the United States and Mr. Epstein.

15 What I find incredulous and disingenuous is that
16 Mr. Epstein is saying that he wants a stay because he may be
17 forced into taking actions in the defense of this case that
18 would violate the agreement.

19 And let me make our position clear on that. If he
20 wants to move to take depositions, interrogatories, production,
21 and they are according to your rulings appropriate, not
22 invasive of the privacy of someone, and they are relevant, then
23 I don't know how those could in any way be violations of the
24 agreement.

25 What I find hypocritical is that there are two parts

1 to the agreement that I am a beneficiary of. One of them is
2 that he has agreed that on any action brought in the 2255, he
3 will admit to liability.

4 And I received on May 26 a motion to dismiss, which
5 we're prepared to respond to and disagree with, but totally
6 contesting liability, saying that the statute doesn't apply
7 because the girls are no longer minors and saying, and this is
8 the great one, saying that the predicate of the conviction
9 under 2255 has not been satisfied.

10 Now, the understanding that I have is the agreement
11 between the Government and Mr. Epstein was that the Government
12 desired to see these victims made whole, and wanted them to be
13 in the same position as if Mr. Epstein had been prosecuted and
14 pled or convicted. And they would be able to have the
15 predicate of that criminal conviction, which just as a matter
16 of liability would just be introduced as proof that he's done
17 this.

18 They, under the agreement, are supposed to admit to
19 liability on limited something that's under 2255. He has
20 filed, but since there is no conviction, there can be no civil
21 suit under 2255, with which we disagree. But it is totally in
22 opposite of the NPA.

23 The second part is there are many young ladies, and
24 this perhaps he can use this to his great advantage, who are
25 humiliated about this entire situation. Some of them won't

1 come forward.

2 We were appointed by Judge Davis as a Special Master
3 to represent these young ladies. And some of them don't even
4 want to file suit. They don't even want to be known as Jane
5 Doe 103. They don't want any of the risks for these motions
6 that are pending.

7 And part of the agreement was that if we represented
8 them and they settle, Mr. Epstein would pay our fees. And he
9 has written us as of yesterday that he is under no obligation
10 to pay our fees on settling cases.

11 Now, those two matters, I believe, may be breaches.
12 But I am not asking this Court at this time to do anything
13 about them. Nor am I telling the Government, I'm not running
14 to the Government and saying indict him because I want you to
15 pressure him to do what he agreed to.

16 I'm a third-party beneficiary for that agreement, and
17 I may move to enforce certain parts of it. But as far as the
18 issue of staying the litigation, that is the exact opposite of
19 the intent and the letter of the NPA. The purpose of the NPA
20 was so that these 34 young ladies, these victims who have been
21 severely traumatized, may move on with their lives.

22 And to stay this action would be the exact opposite of
23 the purpose of that agreement and would be horrible
24 psychologically for all of my clients.

25 THE COURT: Mr. Josefsberg, I understand your

1 position. And I don't want to argue the merits of whether a
2 stay should or should not be granted.

3 I'm just trying to understand what the ground rules
4 are going to be if I grant a stay or if I deny a stay. And
5 I've already denied a stay once. I have to decide this current
6 motion, and I just want to know what is going to happen if I
7 deny the stay in terms of Mr. Epstein's exposure under the
8 non-prosecution agreement. That's my concern.

9 So if you're telling me that you're not going to urge
10 the United States, on behalf of any of your clients, to take
11 the position that he's breached the agreement because he's
12 taking depositions, because he's pursuing discovery, because
13 he's conducting investigations that anyone in any other type of
14 civil litigation might conduct with respect to plaintiffs that
15 are pursuing claims against a defendant, that those typical
16 types of actions, in your judgment, are not breaches of the
17 agreement and that he can go forward and defend the case as any
18 other defendant could defend, and you're not going to run to
19 the United States and say, hey, he's breaching the agreement by
20 taking depositions and he's breaching the agreement by issuing
21 subpoenas to third parties in order to gather information
22 necessary to defend, then I don't have a problem. But if he's
23 going to be accused of breaching the agreement because he sends
24 out a notice of deposition of one of your clients, how is he
25 supposed to defend the case?

1 MR. JOSEFSBERG: Your Honor, you're totally correct.
2 He can depose my client. That's not a problem. But the
3 problem is that these are not typical clients and this is not a
4 typical case. He has written in his pleadings that he wants to
5 publish the names of these girls in the newspapers so that
6 other people may come forward to discuss their sexual
7 activities with these different plaintiffs. That's not your
8 typical case. But are rulings that you'll make in this case,
9 and they're not part of the NPA.

10 As far as my going to the Government is concerned, I
11 find it very uncomfortable for me to use the Government to try
12 to pursue my financial interest in litigation. And I know that
13 Mr. Epstein and his counsel will make much ado about it. So I
14 am not going to be running there.

15 However, if they start taking depositions regarding
16 liability, I will consider that to be a breach because they're
17 supposed to have admitted liability.

18 THE COURT: But, again, I don't have the agreement and
19 I don't remember reading the agreement. But what I'm being
20 told is the part of the agreement that admits liability is only
21 as to a 2255 claim, and there are numerous other personal
22 injury tort claims other than 2255 claims.

23 And there's a limit of damages on the 2255 claim, as I
24 understand it, but I presume that all the plaintiffs are going
25 to seek more than the limited or capped amount of damages in

1 the non-prosecution agreement as to the other claims.

2 And so why aren't they entitled to defend and limit
3 the amount of damages that your client is seeking on the
4 non-2255 tort claims?

5 MR. JOSEFSBERG: Your Honor, you are correct. On
6 non-2255 tort claims, they are permitted to do the defense,
7 whatever is appropriate.

8 My cases are pure 2255 on which liability under the
9 agreement is supposed to be admitted. Now, as to the amount of
10 damages, there are legal issues that will be before you and
11 under the C.M.A. cases that are getting before you, as to
12 whether it is 50 or 150. That has nothing to do with the NPA.

13 There are legal issues that are before you as to
14 whether it is per statute, per count or per incident or per
15 plaintiff. Those have nothing to do with the NPA. There is no
16 amount in NPA. Those will be resolved.

17 Anyone who has brought a case that is outside of 2255,
18 the defense is permitted to contest liability under the NPA.
19 That's no violation.

20 Under the NPA if someone brought a case under just
21 2255, Mr. Epstein, if he is to keep his word, cannot contest
22 liability. And there would no need to stay this. Because it
23 is a self-fulfilling agreement. He can contest liability. And
24 as far as the amount of damages, anyone that wants to go over
25 the statutory minimums, of course, he can contest that in any

1 way that is proper under the Rules of Evidence and your
2 rulings. The NPA has no limitation on his contesting damages
3 above the minimum statutory amount.

4 The only thing that he has done is in his actions of
5 refusing to pay for settling defendants, and in his saying that
6 he has no liability under 2255, those appear to be contrary to
7 what's in the NPA.

8 But I'm not in any position right now to claim a
9 breach, and I don't know whether I'd be claiming a breach or
10 enforcing it in front of you, suing him for fees, asking you to
11 have him admit liability, or complaining to the Government.
12 And that's why I'm not that helpful in this situation because I
13 think it's the Government's role.

14 But I do not waive the right to be a third-party
15 beneficiary because pursuant to my appointment, which was
16 agreed to by Mr. Epstein, I and my clients have certain rights,
17 and we want to enforce them.

18 But his defending this lawsuit will not in any way be
19 a violation. His getting this lawsuit stayed would be a
20 violation of the spirit of taking care of these girls, and
21 there would be other issues. Like if there is a stay, Your
22 Honor, would he be posting a bond?

23 THE COURT: We don't need to talk about those issues.
24 That's not my concern.

25 MR. JOSEFSBERG: I agree, Your Honor, we don't.

1 THE COURT: That's not my concern. So, again, I just
2 want to make sure that if the cases go forward and if
3 Mr. Epstein defends the case as someone ordinarily would defend
4 a case that's being prosecuted against him or her, that that in
5 and of itself is not going to cause him to be subject to
6 criminal prosecution.

7 MR. JOSEFSBERG: I agree, Your Honor.

8 THE COURT: Any other plaintiff's counsel want to
9 chime in?

10 MR. WILLITS: Richard Willits on behalf of C.M.A.. I
11 would join, to weigh in on what Mr. Josefsberg said.

12 MR. JOSEFSBERG: Your Honor, I could not hear.

13 THE COURT: We'll get him to a microphone.
14 Mr. Willits is speaking.

15 MR. WILLITS: On behalf of my client, C.M.A., we join
16 in what Mr. Josefsberg said, and we also want to point out
17 something to the Court.

18 First, we want to make a representation to the Court,
19 we have no intention of complaining to the U.S. Attorney's
20 Office, never had that intention, don't have that intention in
21 the future, but, of course, subject to what occurs in the
22 future.

23 I want to point out to the Court that Mr. Epstein went
24 into this situation with his eyes wide open, represented by
25 counsel, knowing that civil suits had to be coming. If he

1 didn't know it, his lawyers knew it.

2 He appears to be having second thoughts now about he
3 could have negotiated this way or he could have negotiated that
4 way with the U.S. Attorney's Office. And they want to impose
5 their second thoughts on the innocent plaintiffs. We don't
6 think that's fair. We think it's in the nature of invited
7 error, if there was any error whatsoever.

8 Thank you.

9 THE COURT: You agree he should be able to take the
10 ordinary steps that a defendant in a civil action can take and
11 not be concerned about having to be prosecuted?

12 MR. WILLITS: Of course. And we say the same thing
13 Mr. Josefsberg said. It's all subject to your rulings and the
14 direction of this Court as to what is proper and what is not
15 proper. And we're prepared to abide by the rulings of this
16 Court, and we have no intention of running to the State's
17 Attorney.

18 THE COURT: The U.S. Attorney?

19 MR. WILLITS: I'm sorry. The U.S. Attorney.

20 THE COURT: Mr. Garcia.

21 MR. GARCIA: Thank you, Your Honor.

22 If I may briefly, I think perhaps defense counsel
23 forgot about this, but on pages 17 and 19 of my memorandum of
24 law in opposition to the motion to dismiss, I did make
25 reference to the non-prosecution agreement, and I did say that

1 the contesting of the jurisdiction of this Court was a
2 potential breach of the non-prosecution agreement.

3 So my client happens to have, and they have filed with
4 the Court a copy of her state court complaint, given the fact
5 that the non-prosecution agreement limits the non-contesting of
6 jurisdiction to claims exclusively brought under the federal
7 statute.

8 I'm going to go ahead and withdraw those contentions
9 on pages 17 and 19 of my memo of law because it doesn't apply
10 to my case. So to the extent that I raised this issue with
11 defense counsel and the Court, I'm going to withdraw that
12 aspect of it.

13 THE COURT: Can you file something in writing on that
14 point with the Court?

15 MR. GARCIA: Yes.

16 THE COURT: What do you say about this issue that
17 we're here on today?

18 MR. GARCIA: I think that the problem that I have with
19 it is that this non-prosecution agreement is being used by
20 defense counsel for the exact opposite purpose that it was
21 intended. My perception of this thing, and I wasn't around, is
22 that Mr. Epstein essentially bought his way out of a criminal
23 prosecution, which is wonderful for the victims in a way, and
24 wonderful for him, too.

25 Now he's trying to use the non-prosecution agreement

1 as a shield against the plaintiffs that he was supposed to make
2 restitution for.

3 And, certainly, he can take my client's depo. He's
4 done extensive discovery in the state court case -- very
5 intrusive, I might add. And we don't care, because we can win
6 this case with the prosecution agreement or without the
7 prosecution agreement. We are ready to go forward.

8 THE COURT: You're not going to assert to the United
9 States Government that what he's doing in defending the case is
10 a violation for which he should be further prosecuted?

11 MR. GARCIA: Absolutely not.

12 THE COURT: Anyone else for the plaintiffs?

13 MR. HOROWITZ: Judge, Adam Horowitz, counsel for
14 plaintiffs Jane Doe 2 through 7.

15 I just wanted to address a point that I think you've
16 articulated it. I just want to make sure it's crystal clear,
17 which is that we can't paint a broad brush for all of the
18 cases.

19 The provision relating to Mr. Epstein being unable to
20 contest liability pertains only to those plaintiffs who have
21 chosen as their sole remedy the federal statute. My clients,
22 Jane Doe 2 through 7, have elected to bring additional causes
23 of action, and it's for that reason we were silent when you
24 said does anyone here find Mr. Epstein to be in breach of the
25 non-prosecution agreement. That provision, as we understand

1 it, it doesn't relate to our clients.

2 THE COURT: Okay. But, again, you're in agreement
3 with everyone else so far that's spoken on behalf of a
4 plaintiff that defending the case in the normal course of
5 conducting discovery and filing motions would not be a breach?

6 MR. HOROWITZ: Subject to your rulings, of course,
7 yes.

8 THE COURT: Thank you.

9 Anyone else have anything to say from the plaintiffs?

10 Ms. [REDACTED], if you would be so kind as to maybe
11 help us out. I appreciate the fact that you're here, and I
12 know you're not a party to these cases and under no obligation
13 to respond to my inquiries. But as I indicated, it would be
14 helpful for me to understand the Government's position.

15 MS. [REDACTED]: Thank you, Your Honor. And we, of
16 course, are always happy to try to help the Court as much as
17 possible. But we are not a party to any of these lawsuits, and
18 in some ways we are at a disadvantage because we don't have
19 access. My access is limited to what's on Pacer. So I don't
20 really know what positions Mr. Epstein may have taken either in
21 correspondence or in discovery responses that aren't filed in
22 the case file.

23 But your first order was really just what do you think
24 about a stay, and then the second order related to this hearing
25 and asked a much more specific question, which is whether we

1 believe that Mr. Epstein's defense was a breach of the
2 agreement.

3 And I've tried to review as many of the pleadings as
4 possible. As you know, they're extremely voluminous. And I
5 haven't been through all of them. But we do believe that there
6 has been a breach in the filing that Mr. Josefsberg referred
7 to, and contrary to Mr. Critton, we do understand that we have
8 an obligation to provide notice, and we are providing notice to
9 Mr. Epstein today.

10 The pleading that we found to be in breach -- the
11 non-prosecution agreement, sought to do one thing, which was to
12 place the victims in the same position they would have been if
13 Mr. Epstein had been convicted of the federal offenses for
14 which he was investigated.

15 And that if he had been federally prosecuted and
16 convicted, the victims would have been entitled to restitution,
17 regardless of how long ago the crimes were committed,
18 regardless of how old they were at the time, and how old they
19 are today, or at the time of the conviction.

20 And it also would have made them eligible for damages
21 under 2255.

22 And so our idea was, our hope was that we could set up
23 a system that would allow these victims to get that restitution
24 without having to go through what civil litigation will expose
25 them to.

1 You have a number of girls who were very hesitant
2 about even speaking to authorities about this because of the
3 trauma that they have suffered and about the embarrassment that
4 they were afraid would be brought upon themselves and upon
5 their families.

6 So we did through the non-prosecution agreement tried
7 to protect their rights while also protecting their privacy.
8 So, pursuant to the non-prosecution agreement -- on the other
9 hand, we weren't trying to hand them a jackpot or a key to a
10 bank. It was solely to sort of put them in that same position.

11 So we developed this language that said if -- that
12 provided for an attorney to represent them. Most of the
13 victims, as you know from the pleadings, come from not wealthy
14 circumstances, may not have known any attorneys who would be in
15 a position to help them.

16 So we went through the Special Master procedure that
17 resulted in the appointment of Mr. Josefsberg, and the goal was
18 that they would be able to try to negotiate with Mr. Epstein
19 for a fair amount of restitution/damages. And if Mr. Epstein
20 took the position, which apparently he has, which is that the
21 \$50,000 or \$150,000 floor under 2255 also would be a cap. That
22 if they were to proceed to file suit in Federal Court to get
23 fair damages under 2255, Mr. Epstein would admit liability, but
24 he, of course, could fight the damages portion, which means
25 that, of course, he would be entitled to depositions; of

1 course, he would be entitled to take discovery, and we don't
2 believe that any of that violates the non-prosecution
3 agreement.

4 The issue with the pleading that he filed, the motion
5 to dismiss the case, I believe it's Jane Doe 101, represented
6 by Mr. Josefsberg, is that that is a case that was filed
7 exclusively under 18 U.S.C., Section 2255. She met that
8 requirement. Mr. Epstein is moving to dismiss it, not on the
9 basis of damages, he is saying that he cannot be held liable
10 under 2255 because he was not convicted of an offense.

11 The reason why he was not convicted of an offense is
12 because he entered into the non-prosecution agreement. So that
13 we do believe is a breach.

14 The issue really that was raised in the motion to stay
15 and that I addressed in our response to the motion to stay is
16 that Mr. Epstein's -- Mr. Epstein wants to stay the litigation
17 in order to leave, in order to sort of attack the cases of the
18 victims whether they are fully within the non-prosecution or
19 not, non-prosecution agreement or not, and leave the Government
20 without a remedy if he does, in fact, breach those terms. And
21 that is why we opposed the stay.

22 THE COURT: I'm not sure what you mean by that last
23 statement.

24 MS. [REDACTED]: Well, because this issue related to
25 the motion to dismiss on Mr. Josefsberg's client came up after

1 we had filed that response. And what we said in the response
2 to the motion to stay is that the reason why he wants to stay
3 the litigation is so that the non-prosecution agreement
4 terminates based on a period of time, as he puts it. And then
5 afterwards he would be able to come in here and make all of
6 these arguments that clearly violate the non-prosecution
7 agreement but we would be without remedy.

8 THE COURT: But you're not taking the position that
9 other than possibly doing something in litigation which is a
10 violation of an express provision of the non-prosecution
11 agreement, any other discovery, motion practice, investigations
12 that someone would ordinarily do in the course of defending a
13 civil case would constitute a violation of the agreement?

14 MS. [REDACTED]: No, Your Honor. I mean, civil
15 litigation is civil litigation, and being able to take
16 discovery is part of what civil litigation is about. And while
17 there may be, for example, if someone were to try to subpoena
18 the Government, we would obviously resist under statutory
19 reasons, all that sort of stuff. But, no, Mr. Epstein is
20 entitled to take the deposition of a plaintiff and to subpoena
21 records, etc.

22 THE COURT: And even if he seeks discovery from a
23 Government agency, you have the right to resist it under the
24 rules of procedure but that would not constitute a violation,
25 again unless there's a provision in the prosecution agreement

1 that says I can't do this?

2 MS. [REDACTED]: Correct.

3 THE COURT: That's your position?

4 MS. [REDACTED]: Yes.

5 THE COURT: Thank you.

6 MS. [REDACTED]: Thank you, Your Honor.

7 THE COURT: Mr. Critton, did you want to add anything?

8 MR. CRITTON: Yes, sir. Just a few responses to some
9 of the issues that have been raised.

10 The most glaring, at least from our perspective, is
11 both Mr. Josefsberg's comments that he believes that there's a
12 violation of the NPA as well as Ms. [REDACTED] with regard to
13 Jane Doe 101.

14 Mr. Josefsberg, while he was the attorney rep who was
15 selected by Judge Davis to represent a number of individuals,
16 alleged victims that may have been on the list, he represents
17 many of them. And the type of response that was filed in 101
18 would probably be very similar to what we will file if he
19 files -- and he filed 102 as well. But if he files 103, 104
20 and 105, or whatever number he files, we may well take that
21 same legal position in our motions and in our response or in
22 reply.

23 And what we've been, in essence, told today is we
24 consider that to be a violation of the NPA under the
25 circumstances.

1 102 is a perfect example that he filed is, we have
2 e-mails going back and forth between the Government and my
3 clients' attorneys at the time that suggested that 102 probably
4 doesn't even fit within the statute of limitations.

5 So under Mr. Josefsberg's argument is as well, we've
6 only brought a 2255 claim. We don't care whether she's within
7 or is outside the statute of limitations. Because she was on
8 the list and under the circumstances, he has to admit
9 liability, which we contest is under that set of circumstances
10 you're stuck with it. You can fight damages if you can, but
11 she's a real person and you can't raise statute of limitations.

12 The other point that kind of strikes out is there's
13 probably a difference. And I'm happy to provide a copy of the
14 NPA or a redacted portion of the NPA which deals with the civil
15 issues, which are paragraphs 7, 8, 9 and 10, and the entire
16 addenda in camera for the Court to look at, if plaintiff's
17 counsel and the Government, I guess, really, because they're
18 not a party, is if they have no objection because they all have
19 access based on a prior court order to the non-prosecution
20 agreement.

21 So I'm happy to provide that to the Court today and
22 show it to counsel so that the Court can review that.

23 But our position with regard to the 2255 claims is
24 that -- there were two types of claims that could be filed, one
25 was consensual litigation, the second was contested litigation.

1 And under the consensual, in essence, which Mr. Epstein did, is
2 he's offered \$50,000 of the statutory minimum for that time
3 period to all of those individuals.

4 THE COURT: Can I interrupt you a second?

5 MR. CRITTON: Yes, sir.

6 THE COURT: I'm not here, and I don't believe it's my
7 role to decide whether or not there is or is not a breach of
8 the agreement. I'm just trying to understand what the
9 Government's position is regarding your defending these cases.

10 Now, I'm just saying this as an example. If, for
11 example, in the non-prosecution agreement there was a provision
12 that said explicitly: Jeffrey Epstein shall not move to
13 dismiss any claim brought under 2255 by any victim no matter
14 how long ago the allegations or the acts took place, period.

15 If that was in the agreement and you filed a motion to
16 dismiss by someone who brought a claim, it might sound like it
17 might be a violation.

18 MR. CRITTON: I agree.

19 THE COURT: So you would know that when you filed your
20 motion because it was right there for you to read.

21 And so to stay the case because I want to do something
22 that the contract expressly prohibits me from doing, so stay
23 the case until the agreement expires so then I can do something
24 that the agreement said I couldn't do so you won't be in fear
25 of prosecuting, I'm not sure that that is what I'm concerned

1 about.

2 I'm concerned about discovery, investigation, motion
3 practice, that's not prohibited by a provision of the
4 agreement. If there's something that's prohibited by the
5 agreement that you, knowing what the agreement says, go ahead
6 and do, anyway, I guess that's a risk you're going to have to
7 take. If there's a legitimate dispute about it, I guess some
8 arbiter is going to decide whether it's a breach or not.

9 But, again, that's something you and Mr. Burman,
10 Mr. Goldberger, and you are all very good lawyers, and he's got
11 a whole list of lawyers representing him, and you've got the
12 agreement and you're going to make legal decisions on how to
13 proceed, and you're going to have to go and make your own
14 decisions.

15 I'm concerned about things that aren't in the
16 agreement, that aren't covered, that you're going to be accused
17 of violating because, again, you take depositions, you send out
18 subpoenas, you file motions that are not prohibited by the
19 agreement. And that's what I'm concerned about.

20 MR. CRITTON: And I understand that, Your Honor.

21 But at the same time, it's as if the lawyers and the
22 clients, based upon our interpretation of the agreement, and,
23 believe me, we would not have filed 101, the motion to dismiss,
24 but for believing that there was a good faith basis to do that
25 under the circumstances.

1 And now, in essence, we're being accused not only by
2 -- not accused, but it's been suggested that there's a breach
3 of the NPA, not only by Mr. Josefsberg on behalf of 101, but as
4 well Ms. [REDACTED] on behalf of the United States.

5 That's the perfect example. They're basically saying
6 we think you violated. We may send you notice under the
7 circumstances. So does that mean that on 101 we have to back
8 off of it because we think in good faith that it's a motion and
9 is that something that this Court ultimately will rule?

10 THE COURT: I don't know that I'm the one who is going
11 to make that decision. Again, that's not the kind of thing
12 that I was concerned about. I was more concerned about the
13 normal, ordinary course of conducting and defending a case that
14 would not otherwise expressly be covered under the agreement,
15 that you're going to then have someone say, ah, he's sent a
16 notice of deposition, he's harassing the plaintiffs. I don't
17 know if there's a no contact provision in the agreement or no
18 harassment type of provision in the agreement. Ah, this is a
19 breach because you sent discovery, or he's issuing subpoenas to
20 third parties trying to find out about these victims'
21 backgrounds, he's breaching the agreement.

22 Those are the kind of things that I was worried about.

23 MR. CRITTON: The concern that we have is as part of
24 doing this general civil litigation, it's not just the
25 discovery process. And I understand the issues that the Court

1 has raised.

2 But part of it is that often cases are disposed of
3 either on a summary basis or certainly legal issues that come
4 before the Court during the course of the case, just like in a
5 criminal case. That's clearly part of the, I'd say the defense
6 of the case under the circumstances; and if, in fact, an
7 individual can't legally bring a cause of action for certain
8 reasons, such as has been suggested in 101, and may be
9 suggested in 102 when that pleading is filed, that certainly is
10 a position that puts my client at risk.

11 As another example that I use with C.M.A., that they
12 filed this 30-count complaint. Now, they have the state court
13 claims as well. But they, in essence, have said they filed
14 another pleading with the Court that says depending on what the
15 Court rules, in essence, on whether we can file multiple claims
16 or one cause of action with multiple violations, we may dump
17 the state court claims and, therefore, we'll just ride along on
18 that. That's a very different --

19 Mr. Epstein would never have entered into, nor would
20 his attorneys have allowed him to enter into that agreement
21 under those circumstances where he had this unlimited
22 liability. That clearly was never envisioned by any of the
23 defendants -- by the defendant or any of his lawyers under the
24 circumstances.

25 And if that's claimed to be a violation, either by the

1 attorneys; i.e., he's not recapitulating on liability under the
2 2255, and that's all we have now. That's our exclusive remedy.

3 And the Government says, yeah, that's right, that's a
4 violation of the NPA. It again chills us from moving forward,
5 filing the necessary motion papers and taking legal positions
6 that may put my client at risk for violating the NPA and then
7 creating the irreparable harm of, after having been in jail,
8 after having pled guilty to the state court counts, after
9 registering on release as a sex offender, he's complied and
10 done everything, taken extraordinary efforts to comply with the
11 NPA, puts him at substantial risk. And that's what our worry
12 is moving forward.

13 MR. JOSEFSBERG: Your Honor, may I be heard. May I
14 make three comments? It will take less than a minute.

15 THE COURT: Yes, sir.

16 MR. JOSEFSBERG: Mr. Critton refers to the alleged
17 victims. I want you to know that our position is that pursuant
18 to the NPA they're not alleged victims. They are actual, real
19 victims, admitted victims.

20 Secondly, he argues about the statute of limitations
21 on 102. I know that you don't want to hear about that, and I'm
22 not going to comment about it. But please don't take our lack
23 of argument about this as being we agree with anything.

24 Last and most important, we totally agree with
25 Mr. Critton in his suggestion that he hand you a copy of the

1 NPA. I think that many of the questions you asked will be
2 answered when you read the NPA, and I think it's very unfair of
3 everyone who is sitting in front of you who have the NPA to be
4 discussing with you whether it's being breached, whether there
5 should be a stay when you're not that familiar with it.

6 If we would give you a copy of it, I think it would be
7 much more helpful in making your ruling.

8 THE COURT: Maybe Judge Colvat will resolve this issue
9 for me.

10 MR. JOSEFSBERG: Even if he doesn't, Your Honor, I
11 believe we are allowed to show it to you.

12 THE COURT: I'll tell you what: I'll wait for Judge
13 Colvat to rule, and then if he rules that it should remain
14 sealed, then I'll consider whether or not I want to have it
15 submitted to me in camera.

16 Anything else, Mr. Josefsberg?

17 MR. JOSEFSBERG: No. I thank you on behalf of myself
18 and the other counsel on the phone for permitting us to appear
19 by phone.

20 THE COURT: All right. Anyone else have anything they
21 want to add?

22 MR. EDWARDS: Brad Edwards on behalf of Jane Doe.

23 I only had one issue here, and when I read your motion
24 that you wanted to hear on the narrow issue of just defense in
25 the civil actions filed against him violates the

1 non-prosecution agreement, I was expecting that we were going
2 to hear something from the Government similar to the affidavit
3 that was filed by Mr. Epstein's attorneys wherein he indicates
4 as of the day of this affidavit attached to the motion to stay,
5 the U.S. Attorney's Office has taken the position that Epstein
6 has breached the non-prosecution agreement and it names
7 specifically investigation by Epstein of this plaintiff and
8 other plaintiffs, Epstein's contesting damages in this action.
9 Epstein, or his legal representatives, making statements to the
10 press. And we didn't hear any of those things.

11 So that's what I was expecting that the U.S.
12 Attorney's Office was going to expound on and say, yes, we've
13 made some communications to Epstein. He's violating.

14 What we're hearing right now, today, just so that I'm
15 clear, and I think the Court is clear now, is that the
16 non-prosecution agreement is what it is. There have been no
17 violations, but for maybe what Mr. Josefsberg brought up.

18 But there are very few restrictions on Mr. Epstein.
19 He went into this eyes wide open. And whether or not I agree
20 with the agreement, how it came to be in the first place, is
21 neither here nor there.

22 But there have been no violations or breaches up to
23 this point. And his affidavit that was filed, I'm just
24 troubled by where it even came from. I mean, it's making
25 specific allegations that the U.S. Attorney's Office is

1 threatening a breach, and this is part of the motion to stay,
2 which we're all battling here.

3 So I just wanted to indicate to the Court or remind
4 the Court that there have been specific allegations made, the
5 United States Attorney's Office is making these allegations of
6 breach, which we haven't heard any of the evidence of.

7 Thank you.

8 THE COURT: All right.

9 Ms. [REDACTED], did you want to respond to that
10 suggestion that there were other allegations of breach besides
11 the one that you've just mentioned today?

12 MS. [REDACTED]: No, Your Honor.

13 THE COURT: Thank you. I appreciate your giving me
14 the information, which I think has been very helpful today, and
15 I'll try and get an order out as soon as possible.

16 [Court adjourned at 11:10 a.m.].

17 C E R T I F I C A T E

18 I hereby certify that the foregoing is an accurate
19 transcription of proceedings in the above-entitled matter.

20

s/Larry Herr

21

DATE

LARRY HERR, RPR-CM-RMR-FCRSC

22

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