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Marilyn B. [unclear]
District Clerk

MASTER DOCKET NO. 2020-28545

OCT 23 2021

Time: 12:38pm
Harris County, Texas

By: Cassandra Durisseau
Deputy

IN RE JANE DOES CASES

MDL NO. 19-0991

This Document Relates to All Cases

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MDL CIVIL COURT

HARRIS COUNTY, TEXAS

CASE MANAGEMENT ORDER

I. GENERAL STATEMENTS

A. Scope of the Order

This Order applies to all related sex trafficking cases and tag-along cases transferred to this Court pursuant to Texas Rule of Judicial Administration 13 (together the "MDL Cases"). Consistent with Rule 13.6(b), this Order is intended to facilitate the pre-trial administration of the MDL Cases. All MDL Cases are deemed Level 3. Nothing in this Order shall prevent the filing of any motion based on good cause.

B. Application to All Parties and Counsel

This CMO and all subsequent pretrial or case management orders shall be binding on all parties and their counsel in all MDL Cases and shall govern all MDL Cases unless an order explicitly states that it relates only to a specific case. Nothing in this Order shall prevent a party from seeking to amend the terms of this CMO.

C. Transfer to MDL Docket No. 2020-28545

1. General

Only a party to an action, through its counsel of record, may transfer a case to the MDL. The filing of a notice of transfer shall not constitute a waiver of any Defendant's challenge to jurisdiction or venue and/or a special appearance. A notice of transfer filed by any party outside the time limits set out in this Order will be considered ineffective, absent a showing of good cause.

2. Cases filed before entry of this Order

Absent good cause, notices of transfer for these cases must be filed within thirty (30) days of the entry of this Order unless stayed by order or operation of law.

3. Cases filed after the entry of this Order

Notices of transfer for these cases must be filed within thirty (30) days of the date that Defendant's answer is filed.

4. Transfer of files

Upon the filing of a transfer notice under Rule 13, Tex. R. Jud. Admin., with this Court and the transferor court, the clerk of the transferor court shall transfer the entire file to this Court.

II. INITIAL PLEADINGS

A. Plaintiffs' Petition

1. Each Plaintiff's Petition shall state facts supporting the Plaintiff's claims regarding jurisdiction and venue in conformity with the Texas Rules of Civil Procedure.
2. Each Plaintiffs' Petition shall
 - a. identify the claims that are being asserted against each Defendant and the facts in support thereof;
 - b. state the identity and location of each premise allegation; and
 - c. state the alleged injuries and damages suffered by the Plaintiff.
3. The amendment of pleadings or joining of additional parties within ninety (90) days of the pre-trial hearing may cause delay in the trial of the case.

III. PRELIMINARY MOTIONS OR MATTERS

- A. For cases filed after the entry of this Order, preliminary motions and proceedings, including special exceptions under Rule 91, motions to dismiss under 91(a) or other matters concerning challenges to jurisdiction, venue, or special appearances must be filed no later than 45 days after Defendant's initial responsive pleading is due.
- B. For cases filed before the entry of this Order, preliminary motions and proceedings, including special exceptions under Rule 91, motions to dismiss under 91(a) or other matters concerning challenges to jurisdiction, venue, or special appearances must be filed no later than 30 days after the signing of this Order. Nothing herein will revive a Defendant's right to file a preliminary motion for which the time to file the motion expired prior to 1/16/2020 absent the existence of good cause.

IV. PROTECTIVE ORDERS

- A. Because disclosure and discovery in this MDL will involve production of confidential, proprietary, or private information, productions in this case shall be subject to the terms of a Protective Order to be entered by this Court.

V. DISCOVERY

A. Written Party Discovery

1. Defendants' Written Discovery to Plaintiffs

- a. Each Plaintiff shall provide complete answers or objections to master discovery, including completed authorization forms within ninety (90) days following the later of (i) the Court's approval of Defendants' proposed master discovery request, or (ii) the date the Defendant files its initial responsive pleadings in the case. Objections and claims of privilege shall be timely if made at or before the time original answers to master discovery is served.
- b. Other Written Discovery - No other interrogatories, requests for admissions, requests for production, or requests for disclosure shall be served, nor response required, without leave of court or agreement of the parties. Generally, after receipt of a Plaintiff's initial responses to Master Discovery, non-duplicative, narrowly focused additional Interrogatories and Requests for Production applicable to a specific Plaintiff or Defendant will be allowed upon a showing of good cause.

2. Plaintiffs Written Discovery to Defendants

- a. Each Defendant shall provide complete answers or objections to master discovery within forty-five (45) days after service of Plaintiff's original responses to master discovery. If Plaintiff's original responses to master discovery were served before a Defendant's appearance day, that Defendant's deadline to respond to master discovery shall be forty-five (45) days from the date the Defendant files its initial responsive pleadings in the case. Objections and claims of privilege shall be timely if made at or before the time original answers to master discovery is served.
- b. Other Written Discovery - No other interrogatories, requests for admission, requests for production, or requests for disclosure shall be served, nor response required, without leave of court or agreement of the parties. Non-duplicative, narrowly focused additional Interrogatories and Requests for Production applicable to a specific Plaintiff or Defendant will be allowed only upon a showing of good cause.

3. Privilege Logs

- a. Privilege Log - Any party who withholds the production of requested documents or materials, regardless of the manner in which they are kept or maintained, on the ground of any privilege or application of the work-product doctrine must specify in writing, as to each document or thing not produced, the specific privilege(s) or doctrine(s) relied upon to withhold each document ("Privilege Log"). A party will produce a privilege log within thirty (30) days of its production of documents for which any privilege is asserted to apply, and within the same time period following any subsequent or rolling productions. The parties will produce privilege logs in Excel format or a similar electronic format that allows for text searching and organization of data.
- b. Each Privilege Log shall describe each document or thing to which a privilege or work product protection is asserted in sufficient detail to reasonably permit the party seeking discovery to assess whether or not to dispute the assertion. Details include but are not limited to 1) Document Date; 2) Document Author(s); 3) Specification of the privilege or doctrine claimed; and 4) A description of the document and the basis for the privilege claim.
- c. An email that includes multiple communications may be identified in the privilege log as one document.

B. Plaintiff Specific Discovery

1. Depositions

- a. Each Plaintiff, including the estate representative, if applicable, is to be presented for deposition within 120 days from the date Plaintiff responds to Master Discovery, unless physically unable, in which case the Parties shall confer regarding an alternative date or the Court shall set one. The presumption is that Plaintiff's counsel will schedule Plaintiff's deposition by agreement. Notice shall be served only after reasonable attempts to schedule Plaintiff's deposition have failed.

The deposition of each Plaintiff is limited to six (6) hours of deposition time per side. However, a reasonable request for additional time will be liberally granted absent duplicative or abusive questioning.

- b. At least 30 days before such deposition, each Plaintiff will, using "extreme diligence," provide complete responses to Master Discovery Requests and Requests for Disclosure. Notwithstanding this deadline, each Plaintiff shall produce discoverable information and documents in a timely manner.

- c. Plaintiff must appear for an oral deposition. If Plaintiff is unable to appear for an oral deposition, Plaintiff will not be able to testify at trial. Upon motion by a Defendant, the Court may consider the dismissal of the case in light of all circumstances and the state of the evidentiary record.

2. Mental and Physical Examinations

- a. For any Plaintiff asserting a claim for personal injuries, Defendants may move for a physical and/or mental examination any time after the Plaintiff responds to master discovery. Defendants' motion should identify the proposed examiner and provide the examiner's qualifications to conduct the examination.

3. Plaintiffs' Fact Witnesses

- a. Each fact witness shall be identified by Plaintiff no later than thirty (30) days before filing a Conditional Certification Requesting Remand and Trial Date. Notwithstanding this deadline, each Plaintiff shall identify all fact witnesses in a timely manner- Supplemental designations of fact witnesses within sixty (60) days of the pre-trial hearing may cause a delay in the trial of the case. If a fact witness is represented by Plaintiffs' counsel, that fact should be disclosed at the time the witness is identified.
- b. Each fact witness within the control of each Plaintiff or Plaintiffs' counsel whom the Plaintiff intends to call to testify shall be presented for deposition, upon request by any Defendant, within a reasonable time, but no later than sixty (60) days before the pre-trial hearing, unless otherwise ordered by the Court.
- c. Depositions of fact witnesses should be taken before those of expert witnesses, unless the parties agree otherwise.

4. Plaintiff Expert Witnesses

- a. Each expert witness for a Plaintiff shall be identified including information designated in Tex. R. Civ. P. 194(f) (1), (2) and (4)(B) shall be provided to Defendants no later than thirty (30) days before filing a Conditional Certification Requesting Remand and Trial. Supplemental designation of expert witnesses within sixty (60) days of the pre-trial hearing may cause delay in the trial of the case.
- b. The report(s) of Plaintiffs' testifying expert(s) shall be produced to Defendant(s) no later than one hundred and fifty (150) days following Certification.
- c. Each expert witness whom a Plaintiff intends to call to testify at trial shall be presented for deposition, upon the written request of any Defendant, within a

reasonable time but no later than seventy-five (75) days before the date of the pre-trial hearing.

- d. Depositions of Plaintiffs' expert witnesses shall be taken after receipt of any Defendant testifying expert report(s) and before defense expert witnesses, within the same area of expertise, unless the parties agree otherwise.

C. Defendant Specific Discovery

1. Depositions

- a. A presumption exists that Defendant witness depositions, including Corporate Representatives, will be scheduled by agreement. Notice shall be served only after reasonable attempts to schedule such depositions have failed.
- b. Notices of deposition shall include the time, location and identity of the court reporting service and shall be issued twenty-one (21) days in advance of the deposition, unless otherwise agreed by the parties. Parties may seek leave of the Court to schedule depositions on less than twenty-one (21) days' notice for good cause.
- c. All corporate representative depositions under Rule 199.2(b)(1) of the Texas Rules of Civil Procedure will be limited to a maximum of six (6) hours consistent with Rule 199.5(c) of the Texas Rules of Civil Procedure.
- d. The fact witnesses for each Defendant shall be designated no later than thirty (30) days after certification. Supplemental designations may be made until forty-five (45) days before the assigned trial date. If a fact witness is represented by Defendant's counsel, it shall be disclosed.
- e. The fact witnesses within control of Defendant or defense counsel whom each Defendant intends to call to testify shall be presented for deposition within a reasonable time of the written request of another party, but no later than thirty (30) days prior to the pre-trial hearing.
- f. Repeated depositions of the same fact witness are strongly discouraged. They will be allowed where necessary.

2. Defendant Expert Witnesses

- a. The expert witnesses for each Defendant shall be identified no later than forty-five (45) days after certification. Supplemental designations may be made until forty-five (45) days before the pre-trial hearing.

- b. The report(s) of Defendants' testifying expert(s) shall be produced to Plaintiff no later than thirty (30) days following receipt of Plaintiffs' expert report.
- c. The expert witnesses each Defendant intends to call to testify shall be presented for deposition, upon written request of the Plaintiff, within reasonable time, but no later than sixty (60) days before the pre-trial hearing.

D. Subpoena Duces Tecum – Document Request

Deposition document requests to party-controlled fact witnesses should be narrowly focused and requested for good cause. Deposition document requests to expert witnesses should be limited to the material contemplated by Rule 192.3(e) of the Texas Rules of Civil Procedure.”

E. Third Party Discovery

It is assumed that Plaintiffs, Defendants and representatives of any third parties will cooperate in the scheduling of third-party discovery. All third-party subpoenas, and subpoena notices required by the Texas Rules of Civil Procedure (including notices under Rule 205.2), must be electronically served on all counsel of record via email or Texas eFile within the time required by the Rules.

VI. SUMMARY JUDGMENT

At the time of the Court's Conditional Certification, a presumption exists that adequate time for discovery has passed for purposes of the filing of a Defendant's No-Evidence Motion for Summary Judgment pursuant to Rule 166(i)

Nothing in this Order shall be construed to limit any party's right to file a motion for a traditional summary judgment pursuant to Rule 166a ~~motion~~ in accordance with applicable rules. Any party may move for summary judgment or partial summary judgment on any issue without prejudice to later bringing a motion for summary judgment, a motion for partial summary judgment, or a no-evidence motion for summary judgment on any other issue.

Any motion for summary judgment (both a traditional motion and a no-evidence motion) shall be heard and decided prior to the pre-trial hearing absent exceptional circumstances.

VII. CERTIFICATION AND REMAND

- A. Upon completion of the discovery obligations of Plaintiff as set forth in § V above, or a showing of good cause as to why information or materials cannot be provided:

1. Plaintiffs' counsel may file a Conditional Certification Requesting Remand and Trial Date. This conditional certification shall be faxed, emailed, or served through LNFS to all parties.
 2. Within ten (10) days of receipt of a Conditional Certification Requesting Remand and Trial Date, any Defendant that does not believe that the requirements have been met shall file objections notifying Plaintiffs' counsel, in writing, of the specific deficiencies it believes to exist. Any joinders to any objection must be filed no later than two (2) business days after the filing of the objections and must specifically identify the objections being joined.
 3. In order for a case to be conditionally certified, Plaintiff shall arrange for a hearing with this Court on a date no sooner than fifteen (15) days after filing of the request for certification, at which hearing any timely filed objections and timely filed joinders therein will be considered.
 4. If no objections or joinders therein to conditional certification are timely raised, or the objections to certification are overruled; the case is certified, and certification is effective as of the hearing date.
 5. Vacation letters not brought to the Court's attention before certification are waived.
- B. Remand shall be 270 days after certification unless otherwise ordered by the Court.
- C. This Court, in conjunction with the trial court, may set a transferred case for trial at such time and on such a date as will promote the convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. This Court will confer with the trial court regarding potential trial settings or other matters regarding remand. The trial court must cooperate reasonably with this Court, and this Court must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting, without the concurrence of this Court. The parties shall receive at least forty-five (45) days' notice of an initial trial setting.
- D. A written order setting the trial date shall be issued by this Court (see attached form). Plaintiff shall present a blank order to this Court at the certification hearing. The signed order with the designated trial date will then be posted on LNFS.
- E. Defendants are required to designate responsible third parties at least sixty (60) days prior to the pre-trial hearing.
- F. Except as otherwise required by statute or the rules of civil procedure, all motions, other than motions in limine and motions for summary judgment, must be filed no later than forty-five (45) days prior to the pre-trial hearing. Any joinder filed by a

defendant must be filed no later than five (5) business days after the filing of the motion and must identify which motion it is joining by listing the name of the defendant who filed the motion and the title of the motion defendant seeks to join.

- G. Motions to challenge the qualifications of experts, and/or the admissibility of expert testimony, shall be filed no later than forty (40) days prior to the pre-trial hearing. Motions that are the subject of this provision must be heard at least seven (7) days prior to the pre-trial hearing with notice to opposing counsel at least ten (10) days prior to the hearing. Any joinders to any motions to challenge experts must be filed no later than two (2) business days after the filing of the motion and must specifically state which motion is being joined.

VIII. FINAL PRE-TRIAL HEARING AND ORDER OF REMAND

All pre-trial proceedings shall take place in the pre-trial court. There shall be a pre-trial hearing in each case. Fourteen (14) days before the pre-trial hearing, the parties shall exchange final exhibit and witness lists, deposition designations, and motions in limine. The parties shall confer on objections to such exhibits, designations and motions before the pre-trial hearing and provide counter designations.

IX. COURT ADMINISTRATION

- A. The Defendants, through Liaison Defense Counsel, or other designee, shall work with Plaintiff's counsel to agree upon a third-party record ordering service(s) to share equally in the reasonable acquisition and copying costs of records provided to Defendants pursuant to this Order.
- B. The Clerk of this Court shall maintain a master service list of all counsel representing parties in any case to which this Order applies. All counsel for each party shall be listed once, and any party required to serve any notice in a sex trafficking case governed by this Order shall serve one copy of the notice document upon counsel for each party, as appearing on the master service list. If a party is represented by more than one law firm, each law firm shall be listed on the master service list. The list shall be updated periodically and posted by the Clerk on the Harris County District Court website at <http://www.justex.net>. Any counsel substituting into any case to which this order applies shall inform the Clerk of their appearance and request inclusion in the master service list rather than filing motions and orders to substitute in individual cases. Parties shall be responsible for updating the master service list as needed.
- C. The Clerk of this Court shall maintain a file entitled "In re: MDL Jane Doe Cases," which may be referred to as the "MDL Master Jane Doe File." All motions, orders, and other instruments that apply to all sex trafficking cases shall only be filed in the MDL Master Jane Doe File and shall be captioned "In Re: MDL Jane Doe Cases" (Cause No. 2020-28545) and bear the name of the motion. A motion, order,

or other instrument filed in the MDL Master Jane Doe File is deemed filed in each and every sex trafficking case to which it may be applicable and is incorporated by reference into such case for all purposes. Any motion or other instrument not applicable to all sex trafficking-related cases shall be captioned with the individual case name and contain the individual cases' cause number, appended with “-JD” (XXXX-XXXXX-JD). If one party files a motion, discovery pleading, or other instrument in an individual case, the receiving party may apply to the Court to file the document in the MDL Master Jane Doe File.

- D. Counsel may file for admission pro hac vice in accordance with the Texas Government Code. Once a pro hac vice admission is granted for counsel, such counsel may participate in any MDL proceeding. Counsel who appeared in a transferor court prior to transfer need not enter an additional appearance before this Court. If a pro hac vice admission is granted in a specific case while it is in the MDL, the pro hac vice admission extends to the trial of that case following remand. Moreover, a pro hac vice motion is not mandatory for the use of out-of-state attorneys who appear on behalf of a party at a deposition taking place in a state other than Texas.
- E. Telephone hearings are encouraged and may be scheduled with the Coordinator of this Court. The party requesting the hearing shall arrange for a dial-in telephone conference and provide notice and the dial-in number to all known parties.
- F. Counsel for movant shall promptly notify the Coordinator of this Court by email or telephone of the cancellation of any hearing. Service of a Notice canceling a hearing via LNFS is insufficient to notify the Court that a hearing has been passed or cancelled.
- G. Double captions are required. All documents filed or served in plaintiff-specific cases in the MDL must list both the plaintiff-specific MDL cause number and style and the original cause number and style.

X. MISCELLANEOUS PROVISIONS

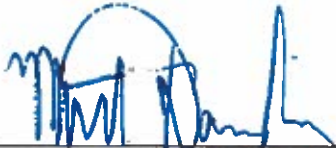
- A. This Court may permit alternative dispute resolution if the parties mutually agree to participate. The trial court will not order alternative dispute resolution without the consent of the pre-trial court.
- B. Should any hearing be canceled by agreement of the parties directly involved in the hearing, the movants, parties joining the motion to be heard and the respondent shall not be required to seek agreement from all parties to a particular case to cancel the hearing.

- C. Unless specifically addressed in this Case Management Order, the Texas Rules of Civil Procedure and Rule 13 of the Texas Rules of Judicial Administration will govern all deadlines and procedures.
- D. Except for the trial date and pre-trial date, any other deadline may be amended by agreement.
- E. The prevailing party in any contested matter shall prepare a written order for the Court's signature submitted for approval to opposing counsel and shall serve all parties with a copy of the signed order.
- F. All unopposed or agreed matters along with a proposed order may be presented to the Court for ruling by submission with appropriate notice.
- G. The Provisions herein shall apply absent good cause found to extend, shorten or otherwise modify designated time frames.

XI. TERMINATION OF TRANSFER

The purposes of transfer of individual cases shall be deemed fulfilled when either (1) this Court has rendered a final and appealable judgment, or (2) this Court determines that pre-trial proceedings have been completed to such a degree that the purposes of the transfer have been fulfilled or no longer apply and remands the case for trial.

Signed this 23rd day of October, 2020.



THE HONORABLE MARK DAVIDSON