

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

IN THE MATTER OF THE ESTATE OF)
JEFFREY E. EPSTEIN,)
)
 Deceased.)
)
)
)

PROBATE NO. ST-19-PB-80

ACTION FOR TESTATE
ADMINISTRATION

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IN THE VIRGIN ISLANDS
SUPERIOR COURT

OPPOSITION TO UNIDENTIFIED CLAIMANTS' MOTION TO INTERVENE

COME NOW the Co-Executors of the Estate of Jeffrey E. Epstein (the "Estate"), **DARREN K. INDYKE AND RICHARD D. KAHN**, by and through **KELLERHALS FERGUSON KROBLIN PLLC**, and hereby oppose the Claimants' Motion to Intervene filed in this proceeding on January 31, 2020 on behalf of (1) "dozens of unidentified claimants . . . who have not yet filed claims" and (2) five anonymous plaintiffs in actions pending in the United States District Court for the Southern District of New York (collectively, the "Unidentified Claimants").

The Unidentified Claimants join the Co-Executors in their across-the-board disagreement with the Government of the Virgin Islands ("GVI")'s unfounded criticism of the proposed Epstein Victims' Compensation Program. *See* Unidentified Claimants' Motion to Intervene at 4 ("taking issue" with each of the GVI's critiques of the Program). However, none of the unidentified Claimants have filed a claim with the Co-Executors pursuant to the U.S. Virgin Islands probate rules applicable to this proceeding. For the reasons set forth in the Co-Executors' Opposition to Government's Motion to Intervene (filed January 31, 2020, corrected brief filed February 3, 2020), which the Co-Executors incorporate herein by reference, the Court should deny the Unidentified Claimants' Motion to Intervene.

Like the GVI in its defective Motion to Intervene, the Unidentified Claimants misunderstand fundamental principles of probate jurisdiction. The Virgin Islands Code contains

non-waivable claims processing rules. *Ottley v. Estate of Bell*, 61 V.I. 480, 496 (V.I. 2014). Failure to follow these mandatory rules means that a claimant does not have a cognizable claim. *See id.* (“A creditor must follow the process outlined in section 606 in order to properly file a complaint in the court against an estate. Failure to do so does not remove the case from the court's jurisdiction, but simply requires the court to dismiss it for failure to state a claim upon which relief may be granted.”); *see also Wells Fargo, N.A. v. Estate of Pond*, 2012 Dist. LEXIS 45366, at *7 (D.V.I. Mar. 30, 2012) (quoting *Steffey v. Estate of Savain*, 15 V.I. 260, 265-266 (V.I. Terr. Ct. 1978) (These procedural requirements are “mandatory and unless the statute has been fully complied with, the claim is declared invalid and has to be rejected.”); 15 V.I.C. § 395. Virgin Islands Rule of Civil Procedure 24 has no application to this probate proceeding — either a claimant has filed a valid claim and appeared, or she has not.

Here, the Estate's assets are already subject to the Court's jurisdiction and control; the Co-Executors simply serve as “an arm” of the Court. *Ottley, supra*, 61 V.I. at 493. The Unidentified Claimants have not followed the simple, straightforward mandatory claims process established by the Virgin Islands Legislature. Once they do, they will be interested parties with the right to fully participate in this proceeding, like any other claimant. If the Unidentified Claimants wish to be heard, they merely need to follow the applicable rules.

For the foregoing reasons, the Co-Executors respectfully request that the Court deny the Unidentified Claimants' Motion to Intervene.

Respectfully,

Dated: February 3, 2020



CHRISTOPHER ALLEN KROBLIN, ESQ.
ANDREW W. HEYMANN, ESQ.
WILLIAM L. BLUM, ESQ.
SHARI N. D'ANDRADE, ESQ.
MARJORIE WHALEN, ESQ.
V.I. Bar Nos. 966, 266, 136, 1221 & R2019
KELLERHALS FERGUSON KROBLIN PLLC
Royal Palms Professional Building
9053 Estate Thomas, Suite 101
St. Thomas, V.I. 00802
Telephone: (340) 779-2564
Facsimile: (888) 316-9269
Email: ckroblin@kellfer.com
aheymann@solblum.com
wblum@solblum.com
sdandrade@kellfer.com
mwhalen@kellfer.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of February 2020, I caused a true and exact copy of the foregoing **Opposition to Unidentified Claimants' Motion to Intervene** to be served upon:

Via Electronic Mail by Agreement of the Parties:

John H. Benham, Esq.
Law Office of John H. Benham, P.C.
P.O. Box 11720
St. Thomas, VI 00801
john@benhamlawvi.com

Douglas B. Chanco, Esq.
ChancoSchiffer P.C.
3355 Lenox Road, Suite 750
Atlanta, GA 30326
doug@csfirm.com

A. Jeffrey Weiss, Esq.
A.J. Weiss & Associates
6934 Vessup Lane
St. Thomas, VI 00802
jeffweiss@weisslaw-vi.net

Richard P. Bourne-Vanneck, Esq.
Law Offices of Richard Bourne-Vanneck
9800 Buccaneer Mall Suite #9
St. Thomas, VI 00802
richard@rpvblawoffices.com

Sean Foster, Esq.
Marjorie Rawls Roberts, P.C.
P.O. Box 6347
St. Thomas, VI 00804
sean@marjorierobertspc.com

Via First-Class Mail, Postage Prepaid:

Denise N. George, Esq.
Attorney General
Ariel M. Smith, Esq.
Chief, Civil Division
Virgin Islands Department of Justice
34-38 Kronprinsdens Gade
GERS Complex, 2nd Floor
St. Thomas, Virgin Islands 00804

J. Russell B. Pate, Esq.
THE PATE LAW FIRM
P.O. Box 370, Christiansted
St. Croix, USVI 00821

Kevin F. D'Amour, Esq.
Gaylin Vogel Esq.
Kevin F. D' Amour, P.C.
5143 Palm Passage, Suite 18b & 19b
St. Thomas, V.I. 00802

John K. Dema, Esq.
Law Offices of John K. Dema
1236 Strand Street, Suite 103
Christiansted, St. Croix
U.S. Virgin Islands 00820-5008

