

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

SCOTT ROTHSTEIN, individually and BRADLEY
J. EDWARDS, individually,

Defendants/Counter- Plaintiffs.

**ORDER GRANTING PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
MOTION FOR SUMMARY JUDGMENT**

THIS CAUSE came before the court on Plaintiff/Counter-Defendant Jeffrey Epstein's Motion for Summary Judgment as to Defendant/Counter-Plaintiff Bradley Edwards's Fourth Amended Counterclaim. The Court, having considered the Motion and Responses, having heard argument of counsel, and being otherwise duly advised in the premises, finds and decides as follows:

In December 2009, Jeffrey Epstein ("Epstein") filed suit against Scott Rothstein ("Rothstein") and Bradley J. Edwards ("Edwards"). In response to Epstein's lawsuit, Edwards filed a Counterclaim, alleging therein two causes of action against Epstein; abuse of process and malicious prosecution. Both causes of action were premised upon Epstein's initial filing of his lawsuit against Edwards. Epstein filed his Motion for Summary Judgment, asserting therein that both the abuse of process claim and the malicious prosecution claim filed by Edwards against Epstein were barred by the litigation privilege. Epstein's Motion was argued before this Court on January 27, 2014. For the reasons set forth below, this Court finds that the litigation privilege applies to both causes of action asserted by Edwards against

Epstein, and grants Plaintiff/Counter-Defendant Jeffrey Epstein's Motion for Summary Judgment.

Summary judgment is proper if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126, 130 (Fla. 2000); *Smith v. Shelton*, 970 So. 2d 450, 451 (Fla. 4th DCA 2007). Likewise, summary judgment is mandated when the pleadings, depositions, answers to interrogatories, admissions, affidavits, and other materials in evidence on file show that there are no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fla. R.Civ. P. 1.510(c). This court, in applying the Florida Supreme Court binding precedent as espoused in *Levin, Middlebrooks, Moves & Mitchell, v. U.S. Fire Ins. Co.*, 639 So. 2d 606, 608 (Fla. 1994) and *Echevarria, McCalla, Raymer, Barrett & Frappier v. Cole*, 950 So. 2d 380 (Fla. 2007), as well as reviewing the application and analysis of those cases in *Wolfe v. Foreman*, 38 Fla. L. Weekly D1540 (July 17, 2013), is bound to conclude that all actions occurring during the course of a judicial proceeding, so long as the actions bear some relation to the proceeding, are absolutely privileged.

Further, during the summary judgment hearing before this Court, Counter-Plaintiff Edwards candidly conceded that all of the allegations upon which relies for both his abuse of process claim and his malicious prosecution claim against Epstein were all acts that occurred during the course of the judicial proceeding and accordingly bore some relation to the judicial proceeding. In *Wolfe*, the Third District Court of Appeal affirmed the trial court's order granting a motion for judgment on the pleadings in an abuse of process and malicious prosecution action, finding that the litigation privilege applied to, and barred, **both** causes of action. *Id.* (emphasis added). The court's focus was on "whether the acts alleged 'occurred[ed] during the course of a judicial proceeding.'" *Id.* (citing *Levin*, 639 So. 2d at 608). The court, relying upon Florida Supreme Court Cases, held that because the acts that formed the basis of

the suit occurred *after* the complaint was filed and were *related to* the judicial proceedings, both causes of action were completely barred. *Id.* (emphasis added); *see also Echevarria, McCalla, Raymer, Barrett & Frappier v. Cole*, 950 So. 2d 380 (Fla.2007); *Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, ■ v. U.S. Fire Ins. Co.*, 639 So. 2d 606 (Fla. 1994); *DelMonico v. Traynor*, 2013 WL 535451 (Fla.2013); *Am. Nat'l Title & Escrow of Fla. v. Guarantee Title & Trust Co.*, 748 So. 2d 1054, 1055 (Fla. 4th DCA 2000) (affirming the trial court's order granting summary judgment in an action for abuse of process on the basis of absolute immunity and on the authority of Levin).

While Edwards urged the court to apply the holding in *Olson v. Johnson*, 961 So. 2d 356 (Fla. 2d DCA 2007), and argued that the decision in *Olson* was in conflict with *Wolfe*, this Court finds *Olson* inapplicable and factually distinguishable. In *Olson*, at issue were extra-judicial, false statements that were made to a police officer prior to the institution of a legal proceeding. As such, the *Olson* court found that the false statements were not made during the course of a judicial proceeding and were, therefore, not privileged. *Id.*

Accordingly, it is hereby ORDERED that Plaintiff/Counter-Defendant Jeffrey Epstein's Motion for Summary Judgment as to Defendant/Counter-Plaintiff Bradley Edwards's Fourth Amended Counterclaim is GRANTED.

DONE AND ORDERED this February ___, 2014.

CIRCUIT COURT JUDGE

Copies furnished to all parties on service list