

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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IN MATTER OF APPLICATION OF BRADLEY : Index No. 112345/2010
JAMES EDWARDS SEEKING CPLR 3102(e) : (Justice Goodman)
ORDER FOR DAILY NEWS, L.P. TO PRODUCE :
TAPE RECORDING : Motion Seq. No. 1
:
..... X

**AFFIRMATION OF ROBERT D. BALIN IN
OPPOSITION TO MOTION FOR CPLR 3102(e) ORDER**

ROBERT D. BALIN, an attorney duly admitted to practice law before the courts of the State of New York, hereby affirms the following to be true under penalty of perjury:

1. I am a member of Davis Wright Tremaine LLP, attorneys for Daily News, L.P. (“Daily News”). I submit this affirmation in opposition to the motion of Bradley James Edwards for an order, pursuant to CPLR 3102(e), compelling the Daily News to produce a certain audio recording.

2. The grounds for denying Edwards’ motion are fully set forth in the accompanying memorandum of law. I submit this affirmation to annex exhibits relevant to the Daily News’ opposition.

3. Annexed hereto as Exhibit “A” is a true and correct copy of the Complaint of Jeffrey Epstein, with Exhibits 1 and 2, that was filed December 7, 2009 in the proceeding entitled *Jeffrey Epstein v. Scott Rothstein, et al.*, Case No. 502009CA040800XXXXMBAG, in the 15th Judicial Circuit of the Florida Circuit Court (the “Ponzi Scheme Action”).

4. Annexed hereto as Exhibit “B” is a true and correct copy of the Answer and Counterclaim of Defendant, Bradley J. Edwards that was filed December 21, 2010 in the Ponzi Scheme Action.

5. Annexed hereto as Exhibit "C" is a true and correct copy of the Order on Motion of Counter-Defendant, Jeffrey Epstein, for a More Definite Statement and Motion to Dismiss, dated January 26, 2010, that was issued in the Ponzi Scheme Action.

6. Annexed hereto as Exhibit "D" is a true and correct copy of Defendant Bradley J. Edwards's Motion to Appoint Commissioner that was filed July 19, 2010 in the Ponzi Scheme Action.

7. Annexed hereto as Exhibit "E" is a true and correct copy of the Order on Defendant's Motion to Appoint Commissioner, dated August 3, 2010, that was issued in the Ponzi Scheme Action.

8. Annexed hereto as Exhibit "F" is a true and correct copy of Defendant Bradley J. Edwards' Motion for Final Summary Judgment that was filed September 22, 2010 in the Ponzi Scheme Action.

9. Annexed hereto as Exhibit "G" is a true and correct copy of Defendant Bradley J. Edwards' Statement of Undisputed Facts that was filed September 22, 2010 in the Ponzi Scheme Action.

10. Annexed hereto as Exhibit "H" is a true and correct copy of the docket in the Ponzi Scheme Action as of November 1, 2010.

11. Annexed hereto as Exhibit "I" is a true and correct copy of the Non-Prosecution Agreement between the United States Attorney for the Southern District of Florida and Jeffrey Epstein, executed by Epstein on September 24, 2007.

12. Annexed hereto as Exhibit "J" is a true and correct copy of the Affidavit of George Rush, sworn to April 6, 2010, that was submitted in the proceeding entitled *In re*

Application to Quash Subpoenas to Daily News, L.P., and George Rush, No. M8-85, in the U.S. District Court for the Southern District of New York (the “Jane Doe Action”).

13. Annexed hereto as Exhibit “K” is a true and correct copy of Real Party In Interest Jane Doe’s Response in Opposition to Motion of Daily News, L.P. to Quash Subpoenas, with exhibits, dated April 29, 2010, that was submitted in the Jane Doe Action.

14. Annexed hereto as Exhibit “L” is a true and correct copy of the Supplementary Affidavit of George Rush, sworn to April 30, 2010, that was submitted in the Jane Doe Action.

15. Annexed hereto as Exhibit “M” is a true and correct copy of the Memorandum and Order dated May 18, 2010 that was issued in the Jane Doe Action.

16. Annexed hereto as Exhibit “N” is a true and correct copy of the Amended Order, dated July 28, 2010, that was issued by the U.S. Court of Appeals for the Second Circuit in the appeal in the Jane Doe Action.

17. Annexed hereto as Exhibit “O” is a true and correct copy of the Judgment against Scott W. Rothstein that was entered June 9, 2010 in the criminal case entitled *United States v. Scott W. Rothstein*, Case No. 09-cr-60331, in the U.S. District Court for the Southern District of Florida.

Dated: New York, New York
November 1, 2010



Robert D. Balin