

1 IN THE SEVENTEENTH JUDICIAL CIRCUIT IN
2 AND FOR BROWARD COUNTY, FLORIDA
3 CIVIL DIVISION

4 CASE NO: CACE 15-000072

5 BRADLEY J. EDWARDS and
6 PAUL G. CASSELL,

7 Plaintiff/
8 Counterclaim Defendants,

9 vs.

10 ALAN M. DERSHOWITZ,

11 Defendant/Counterclaim Plaintiff.
12 _____/

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15 HEARING BEFORE THE HONORABLE THOMAS M. LYNCH, IV
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18

19 Thursday, October 22, 2015

20 9:05 a.m. - 9:15 a.m.

21 201 Southeast 6th Street
22 Courtroom 950
23 Fort Lauderdale, Florida 33301

24 Theresa Tomaselli, RMR
25

ESQUIRE DEPOSITION SOLUTIONS

(954) 331-4400

APPEARANCES OF COUNSEL

1
2 On behalf of the Plaintiffs:

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11 On behalf of Jeffrey Epstein:

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20 Also Present:

21 THOMAS E. SCOTT, ESQUIRE
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P R O C E E D I N G S

1
2 Thereupon, the following proceedings
3 were had:

4 MS. COLEMAN: Good morning, Your Honor. How
5 are you?

6 THE COURT: Hi there. How are you?

7 MS. COLEMAN: Doing well. How are you?

8 THE COURT: All right. We have got a busy
9 day on this case, huh?

10 MS. COLEMAN: Yes, Judge, and I'm a nonparty
11 to this case. This is hopefully the only time
12 you will be hearing from me today. Tonja Haddad
13 Coleman on behalf of nonparty Jeffrey Epstein.

14 MR. SCAROLA: And Jack Scarola, Your Honor,
15 on behalf of the Plaintiffs in this action.

16 THE COURT: Yes.

17 MR. SCAROLA: Good morning, sir.

18 THE COURT: Let me just sign this order and
19 I'll be right with you.

20 Okay. Go right ahead.

21 MS. COLEMAN: Thank you, Judge. My client is
22 a nonparty to this action, Jeffrey Epstein.

23 Jeffrey Epstein is a Defendant in the civil
24 litigation case that is currently pending before
25 the Fourth DCA in which Mr. Edwards is a

1 Plaintiff. The Court ordered us to mediation.

2 THE COURT: Oh, that one. Okay. Okay.

3 MS. COLEMAN: The Court ordered --

4 THE COURT: There's a lot of action in this
5 case. That's the one that's up in the Fourth,
6 okay.

7 MS. COLEMAN: Yes, sir. The Court ordered us
8 to attend a mediation regarding the attorney's
9 fees while the appeal was pending, simply because
10 we, being Mr. Epstein, had successfully moved for
11 entitlement to attorney's fees, and the Judge
12 indicated that he wanted us to attend a mediation
13 while the case was up on appeal.

14 Both parties agreed it wasn't really
15 necessary, but the Court wanted us to do it.
16 And, thereafter, Mr. --

17 THE COURT: While it was up on appeal?

18 MS. COLEMAN: I'm sorry?

19 THE COURT: While it was up on appeal --

20 MS. COLEMAN: Yes.

21 THE COURT: -- the Trial Court ordered
22 mediation?

23 MS. COLEMAN: Yes, sir.

24 MR. SCAROLA: There was pending before the
25 Trial Court, Your Honor, an issue with regard to

1 attorney's fees --

2 THE COURT: Oh, okay.

3 MR. SCAROLA: -- pursuant to a proposal for
4 settlement, so the Court had jurisdiction --

5 THE COURT: Gotcha.

6 MR. SCAROLA: -- over that issue, although
7 what was ordered was --

8 THE COURT: That's really none of my business
9 anyway. I was just interested.

10 MR. SCAROLA: Well, that just helps Your
11 Honor to understand that this wasn't an entirely
12 over vires act.

13 MS. COLEMAN: The issue of attorney's fees
14 was the original subject of the mediation,
15 attorney's fees to which the Court had determined
16 my client, Mr. Epstein, was entitled.

17 What the Court -- Mr. Edwards petitioned the
18 Court to compel Mr. Epstein to personally appear
19 at the mediation. The Court granted that motion,
20 and a copy of the order is attached to our
21 complaint -- our motion here to quash.

22 In compliance with that order, Mr. Epstein
23 personally attended the mediation in West Palm
24 Beach. While present at the mediation in the
25 mediation room with his attorneys, Mr. Epstein

1 was sitting, prepared to go forward with the
2 mediation, and Mr. Edwards and his counsel and
3 the process server entered the mediation room and
4 attempted to serve Mr. Epstein with a subpoena
5 duces tecum requiring Epstein to appear for the
6 taking of his deposition in West Palm Beach,
7 Florida.

8 The concern with this, first and foremost, of
9 course, is that we are moving to quash because a
10 party -- a person attending court ordered
11 Alternative Dispute Resolution outside of their
12 territorial jurisdiction of their residence is
13 immune, not only while attending that, but for a
14 reasonable time traveling to and traveling from
15 such hearing.

16 There is a case in which this was extended to
17 Alternative Dispute Resolution which is cited in
18 our motion.

19 The second issue regarding this motion to
20 quash, Judge, is that Mr. Epstein is, as
21 Mr. Edwards is well-aware, a legal resident of
22 the United States Virgin Islands.

23 All of the case law is delineated in our
24 motion, but we would submit that we are well
25 within the proper portion of the law from the

1 Florida Supreme Court, Stokes v. Bell,
2 441 So. 2d 146, stating that this will proceed on
3 the ground that the due administration of justice
4 requires that a court shall not permit
5 inference -- interference with the progress of a
6 cause pending before it by the service of process
7 in other suits.

8 And, again, Judge, it's very clear
9 Mr. Epstein is not a party to this suit. And we
10 submit that it's, you know, proper because in
11 Stokes, the Florida Supreme Court upheld the
12 lower court's decision to abate service for lack
13 of personal jurisdiction when the party to whom
14 service was processed was defending himself in an
15 unrelated civil matter in the Florida courthouse.
16 And that Defendant was a resident of the Bahamas.

17 And the Supreme Court held that nonresidents
18 are exempt from service of civil process while
19 they are attending or traveling to or from court
20 proceedings outside the county of their residence
21 as witnesses or suitors. And there's a Fourth
22 DCA case, 1981, to which that court refers which
23 is Cordoba versus Cordoba, 393 So. 2d 589.

24 And just so Your Honor is clear, in Lee
25 versus Stevens of Florida, 578 So. 2d 867,

1 Florida Second DCA 1991, the Court extended the
2 immunity to Alternate Dispute Resolution for the
3 same chilling effect that it may have on parties
4 attending Alternate Dispute Resolution.

5 THE COURT: Okay. Thank you.

6 MR. SCAROLA: Your Honor, there is no dispute
7 with regard to what the law is. There is a
8 dispute with regard to the application of that
9 law to these facts, because the problem with the
10 position taken by Mr. Epstein is that he has
11 confused the concepts of domicile and residence.

12 Mr. Epstein is legally domiciled in the U.S.
13 Virgin Islands on his private island. He has
14 residences in New Mexico, Palm Beach, New York,
15 and Paris, and has given sworn testimony, one of
16 the few substantive questions that he has
17 answered, on January 25, 2012, identifying one of
18 his residences as 350 -- excuse me -- 358
19 El Brillo Way in the town of Palm Beach.

20 Jeffrey Epstein was present in Palm Beach
21 County, in the State of Florida, in a county and
22 state in which he regularly resides, and so he
23 has not been served outside of the area of his
24 residence.

25 He has been served in a county and state

1 where he resides and he should be obliged, as a
2 consequence, to respond to the subpoena that was
3 lawfully issued upon him.

4 THE COURT: Anything else?

5 MS. COLEMAN: Yes, Judge. Section 48.194 of
6 the Florida Statutes provides that service of
7 process of nonresidents of Florida outside the
8 state has to be done properly at the place of
9 their regular residence.

10 Just because Mr. Epstein owns a home here
11 does not make him a resident of the State of
12 Florida.

13 THE COURT: But counsel indicates that
14 there's a distinction between domicile and
15 residence in that, at least it's his position
16 that Epstein is domiciled -- might be domiciled
17 in the Virgin Islands, but is a resident of Palm
18 Beach County.

19 MS. COLEMAN: Well, Judge, he's not a
20 resident. Just because he owns a residence there
21 doesn't make him a resident of that state or
22 city. As the Court is well-aware, there's a very
23 specific process that must be determined to
24 determine -- for the Court or anyone to determine
25 whether someone resides in a particular location.

1 And under the statutes, Mr. Epstein does not live
2 here. He was here pursuant to a court order to
3 attend a mediation and was served.

4 Mr. Scarola has offered no case law that
5 distinguishes between a domicile and a residence.
6 The statute does not distinguish between a
7 domicile and a residence. It specifically
8 states, "nonresidents of Florida." We have
9 submitted that Mr. Epstein is a legal resident of
10 the United States Virgin Islands. Just because
11 he owns a home here does not make him a resident.

12 I believe there's several statutes in the
13 State of Florida which are applicable to
14 determining whether or not it is someone's
15 residence, much less primary place of residence,
16 as opposed to their domicile.

17 THE COURT: Well, the case you cited in the
18 Bahamian situation, where that individual, I
19 believe, was a permanent resident of the Bahamas,
20 and is it your position that your client,
21 Mr. Epstein, is a permanent resident of the U.S.
22 Virgin Islands?

23 MS. COLEMAN: Yes, Judge, I am. All of his
24 legal documentation shows that as his legal
25 residence. Every pleading, every response to a

1 complaint, any legal issue where it's ever been
2 addressed, it has consistently and unequivocally
3 been held that Mr. Epstein is a legal resident of
4 the United States Virgin Islands.

5 And quoting something from 2012, with all due
6 respect, when we are in 2015, offers no more
7 proof of his residence than anything else.

8 MR. SCAROLA: Your Honor, the burden in
9 quashing this subpoena is upon Mr. Epstein to
10 prove that he is a nonresident of Palm Beach
11 County, Florida. He has asserted that he resides
12 in the U.S. Virgin Islands. It is apparent that
13 his domicile is the U.S. Virgin Islands, but he
14 has not offered any proof that he is a
15 nonresident of Florida.

16 And it is on that basis that this motion to
17 quash should be denied. They have failed to
18 carry their burden of proof, particularly when he
19 has sworn previously that one of his residences
20 is Palm Beach, Florida.

21 THE COURT: I'm going to reserve ruling. I
22 want to take a look at this. Let me just check
23 one thing out here before you go.

24 MR. SCAROLA: May I provide the Court with
25 the partial transcript of the deposition?

1 THE COURT: Sure.

2 MR. SCAROLA: Thank you. There you are, sir.

3 THE COURT: Thank you. How about you give me
4 until either tomorrow or Monday; I'll try to get
5 to it tomorrow depending on how things go.

6 MR. SCAROLA: There's no urgency, Your Honor.
7 That's fine.

8 MS. COLEMAN: And, Your Honor, if the Court
9 wishes, I can provide an affidavit that my client
10 recently signed saying that he's a legal resident
11 of the U.S. Virgin Islands, if the Court is so
12 inclined to review it.

13 THE COURT: I don't know. Let me take a look
14 and I'll let you know.

15 MR. SCAROLA: Thank you, sir.

16 MS. COLEMAN: Thank you.

17 THE COURT: Thanks.

18 (Thereupon, at 9:15 [REDACTED]. the hearing was
19 concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF BROWARD)

I, THERESA TOMASELLI, Registered Merit Reporter certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

Dated this 21st day of November, 2015.

THERESA TOMASELLI, RPR, RMR