

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

JUDGE: DAVID CROW

vs.

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

Defendants/Counter-Plaintiff,

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MEDIATION
SUMMARY**

Plaintiff/Counter-Defendant, Jeffrey Epstein ("Epstein"), by and through his undersigned counsel, hereby files this Mediation Summary in preparation for the Mediation scheduled before you on October 11, 2013, and states:

I. PROCEDURAL HISTORY

In December 2009, Epstein filed suit against Scott Rothstein ("Rothstein") and Bradley J. Edwards ("Edwards"), based upon Epstein's well-founded belief at the time of filing his Complaint that these two individuals, and other unknown partners of theirs at Rothstein, Rosenfeldt, Adler ("RRA"), engaged in serious misconduct involving a widely publicized illegal Ponzi scheme operated through their law firm (the "Ponzi scheme"). Rothstein himself admitted to, and was convicted for, this Ponzi scheme, which featured civil cases against Epstein as bait to lure unsuspecting investors into the fraudulent scheme. Edwards was lead counsel on these cases. After taking the deposition of Scott Rothstein, and receiving numerous rulings from this Court prohibiting Epstein from receiving discovery germane to proving his case, Epstein dismissed his case against Edwards, without prejudice.

In response to Epstein's original lawsuit, Edwards filed a Counterclaim, and after a series of dismissals thereof and four (4) revisions, Edwards has stated two causes of action against Epstein: Abuse of Process and Malicious Prosecution. Epstein has denied liability as to these

claims and has asserted various affirmative defenses, which Edwards cannot, and has not, overcome, including Edwards's failure to state a cause of action in either abuse of process or malicious prosecution, and Edwards's inability to overcome the absolute immunity afforded to Epstein under the litigation privilege.

II. SUMMARY OF EPSTEIN'S ARGUMENT

Epstein submits that Edwards's claims fail for the following reasons: First, regarding his Abuse of Process claim, Edwards does not allege any misuse of process by Epstein *after* Epstein filed his lawsuit against Edwards. To the extent that any evidence from Edwards establishes anything at all, it makes it unequivocally clear that any and all actions taken by Epstein for which Edwards is now suing occurred *during the pendency of litigation*, barring his claim under the litigation privilege. Second, Edwards's cause of action for Malicious Prosecution, like his claim for Abuse of Process, is barred by the litigation privilege. Finally, assuming that somehow Edwards's claims were not barred by the litigation privilege, Edwards has not, and will never be able to, establish a bona-fide termination of Epstein's case in chief in Edwards's favor. Further, not only does Edwards offer no evidence of Epstein's want of probable cause, but also the undisputed facts of this case establish that Epstein had probable cause to file his Complaint as a matter of law.

III. STATEMENT OF FACTS AND LAW

A. LITIGATION PRIVILEGE

The litigation privilege provides to all persons involved in judicial proceedings, including actions for abuse of process or malicious prosecution, an absolute privilege from civil liability for actions taken in relation to those proceedings. According to Edwards's own Complaint and discovery responses, Edwards's sole basis for his cause of action for Abuse of Process against Epstein is "[e]ach and every pleading filed by and on behalf of EPSTEIN in his prosecution of every claim against EDWARDS, every motion, every request for production, every subpoena issued, and every deposition taken as detailed on the docket sheet" as the "perversion of process after its initial service." Additionally, in response to Epstein's Interrogatories requesting that Edwards provide an exact and detailed description of any actions, or process, alleged to be abusive and upon which he will rely in prosecution of his case, Edwards stated: "every pleading, motion, notice and discovery request served by the Plaintiff

on Bradley Edwards in this case.” When Epstein asked for the dates upon which each and every purported abuse of process occurred, Edwards again replied: “the date of service of each of the above as reflected on the Certificate of Service of each.” Accordingly, Edwards has not pointed to, and indeed cannot point to, one act either *outside of or extrinsic to the litigation*, undeniably establishing that his claim is barred by the litigation privilege. Additionally, in a recent case on similar facts, the court held that *all of the pleadings* fall squarely within the litigation privilege, thereby defeating claims of both abuse of process and malicious prosecution. As such, litigation privilege bars both causes of action.

B. PROBABLE CAUSE AND GOOD FAITH BASIS TO FILE SUIT

The following are the incontrovertible and undeniable facts that existed at the time Epstein filed his Complaint in December 2009, and were the facts upon which Epstein relied as requisite cause to assert his causes of action against Rothstein and Edwards:

Edwards was a partner at Rothstein Rosenfeld Adler (“RRA”) from April 2009 through November 2009. During that time, his firm was a front for the largest Ponzi scheme in Florida’s history. Also during that time RRA, through its partner, Edwards, was prosecuting three civil cases against Epstein (the “Epstein Cases”). After RRA imploded in early November 2009, Epstein learned, along with the rest of South Florida, about the Ponzi scheme, and that it was the Epstein Cases; the very same cases brought to RRA by Edwards, that were used to fund the Ponzi scheme. Essentially, investors were conned into “investing” millions of dollars in the future settlements of the Epstein Cases. Edwards was the lead counsel and the supervising attorney over each of the Epstein Cases.

In late November 2009, Epstein was also alerted that as a result of the Ponzi scheme at RRA, the Florida Bar had commenced investigations into approximately 40 of the 70 attorneys employed by RRA. At or about the same time in November 2009, the press reported that the law firm Conrad Scherer filed a Complaint against Rothstein and others, *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19) (hereinafter the “Razorback Complaint”), on behalf of some of the Ponzi scheme investors. The *Razorback* Complaint alleged the following:

In fact, RRA did have inside information due to its representation of one of Epstein’s alleged victims in a civil case styled Jane Doe v. Jeffrey Epstein, pending in the Southern District of Florida. Representatives of D3 were offered

“the opportunity” to invest in a pre-suit \$30,000,000.00, court settlement against Epstein arising from the same set of operative facts as the Jane Doe case, but involving a different underage female plaintiff. **To augment his concocted story Rothstein invited D3 to his office to view the thirteen banker’s boxes of actual case files in Jane Doe in order to demonstrate that the claims against Epstein were legitimate and that the evidence against Epstein was real. In particular, Rothstein claimed that his investigative team discovered that there were high-profile witnesses onboard Epstein’s private jet where some of the alleged sexual assaults took place and showed D3 copies of a flight log purportedly containing names of celebrities, dignitaries and international figures.**

Additionally, Rothstein used RRA’s representation in the Epstein case to **pursue issues and evidence unrelated to the underlying litigation but which was potentially beneficial to lure investors into the Ponzi scheme. For instance, RRA relentlessly pursued flight data and passenger manifests regarding flights Epstein took with other famous individuals knowing full well that no under age [sic] women were on board and no illicit activities took place. RRA also inappropriately attempted to take the depositions of these celebrities in a deliberate effort to bolster Rothstein’s lies.**

These deposition subpoenas were served on famous personalities including former President Bill Clinton, Donald Trump, and magician David Copperfield, even though none of Edwards’s clients alleged having any interactions with any of these famous individuals, or ever being on Epstein’s plane, as cited in the *Razorback* Complaint. All of these deposition subpoenas and discovery requests to which the *Razorback* Complaint refers were served by Edwards at the time that Edwards was a partner at RRA and the lead attorney on the Epstein Cases.

On December 1, 2009, also before Epstein filed suit, the Federal government filed an Information against Scott Rothstein. The Information repeatedly references RRA as the Enterprise with which Rothstein and his co-conspirators were associated and by which they were employed. The co-conspirators were not identified by name; rather, the Information charges that “Rothstein and his conspirators, known and unknown,” participated in or conspired to participate in “racketeering activity” to further the Ponzi scheme. Scott Rothstein, Edwards’s partner at RRA, admitted to and was convicted for these acts that occurred at RRA. He is serving a fifty (50) year sentence. Several other partners of RRA have also been federally charged and/or convicted, and the US Government has confirmed that the events at RRA are still the subject of an active, ongoing investigation.

In addition, before filing his Complaint, Epstein discovered that the questionable discovery practices employed by the RRA partners in the Epstein Cases,

such as those alleged in the *Razorback Complaint*, intensified drastically in the short six (6) months during which Edwards was a partner at RRA. Edwards himself has admitted that there were between \$300,000 and \$500,000 in litigation and investigation related expenditures on the Epstein Cases during that short period of time during which he was a partner at RRA, yet Edwards testified that expenditures on the Epstein Cases during the preceding eight months, before he joined RRA, may not have even exceeded \$25,000. Further, while Edwards prosecuted the Epstein Cases at RRA, he repeatedly utilized the services of a convicted felon, members of the press, and former federal agents for investigating and prosecuting the cases against Epstein. RRA, through Edwards, also filed a two hundred thirty-four (234) page, one fifty-six (156) count federal complaint against Epstein on behalf of a plaintiff, LM, for whom Edwards was already prosecuting a case against Epstein in state court involving the very same facts alleged in the federal complaint. While the complaint was filed in federal court, Edwards never served upon Epstein

Also while a partner at RRA, Edwards filed a motion in Federal court in which he requested that the court order Epstein to post a **fifteen million dollar** bond in the *Jane Doe* case; one of the Epstein cases that was being touted to the investors. In his Motion, Edwards discussed, at length, Epstein's net worth. Edwards also filed a Notice of Additional Evidence, in which he listed, in great detail, vehicles, planes, and other items of substantial value Edwards alleged to be owned by Epstein. This was at the exact time, according to both Rothstein and the Federal government, that the Ponzi scheme was unraveling. Just days before the RRA implosion, the Federal Court rejected Edwards's bond motion, stating that it was "**entirely devoid of evidence.**"

Finally, while Epstein's suit was pending against Edwards, Scott Rothstein was deposed. Rothstein stated that he "did not know" if Brad would have reported illegal activity, yet he was confident that the other partners with whom Edwards worked at RRA in his practice group would have absolutely reported the Ponzi scheme. When pressed further as to his comments about Edwards, Rothstein stated the following:

Q When you were asked - this morning about Brad Edwards you really hesitated. I don't know if you know you did that, You were answering yes no maybe so. On him you really paused.

A On the question as whether or not he would have turned us in, you mean?

Q Whether he was a player or whether he was involved and you didn't quite answer.

A Just because of the way I knew Brad and socialized with him, I did not know that he was at that level. There are certain people, Barry Stone, second he found out about it would have absolutely done what was appropriately- supposed to do from an ethical standpoint. And then there were people who I would say would never do that. And then there are people in the middle. I believe Brad Edwards is probably in the middle.

The standard for probable cause is whether the defendant “**reasonably could have believed**” that the person in the previous action was guilty of the claims previously alleged, **at the time of asserting the claim**. This is an extremely low legal burden, satisfied by the subjective facts as known at the time the underlying action was initiated. Here, the allegations in Epstein’s lawsuit against Edwards, coupled with the irrefutable facts surrounding the underlying “Epstein Cases” and what was occurring at RRA during the time in question, establish the requisite cause to defeat Edwards’s claims.

Respectfully submitted,

/s/ Tonja Haddad Coleman
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