

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendant,

DEFENDANT/COUNTER- [REDACTED] RESPONSE IN OPPOSITION TO
PLAINTIFF/COUNTER- [REDACTED] MOTION FOR SUMMARY JUDGMENT ON
DEFENDANT/COUNTER- [REDACTED] FOURTH AMENDED COUNTERCLAIM

Defendant/Counter-Plaintiff Bradley J. Edwards, by and through his undersigned counsel, hereby submits this Response in Opposition to Plaintiff/Counter-Defendant Jeffrey Epstein's Motion for Summary Judgment. Epstein seeks Summary Judgment on the claims of abuse of process and malicious prosecution set forth in Brad Edwards' Fourth Amended Counterclaim. Each of the grounds asserted in support of Epstein's Motion for Summary Judgment are without merit and must be denied.

In Epstein's Amended Complaint he carries forth the essence of all claims asserted in his original Complaint. In that pleading Epstein essentially alleges that Edwards joined Rothstein in the abusive prosecution of sexual assault cases against Epstein to "pump" the cases to Ponzi scheme investors. The purported "proof" of the allegations against Edwards, as referenced in the Second Amended Complaint and in Epstein's Motion for Summary Judgment, includes Edwards' alleged contacts with the media, his attempts to obtain discovery from high profile persons with whom Epstein socialized, press reports of [REDACTED] known illegal activities, the use of "ridiculously inflammatory" language and arguments in court. But as the evidence submitted in opposition to Epstein's Motion for Summary Judgment reflects, Epstein filed his claims and continued to pursue claims despite his knowledge that his claims could never be successful because they were both false and unsupported by any reasonable belief of suspicion that

they were true. Epstein knew that he had in fact molested each of the minors represented by Brad Edwards. He also knew that each litigation decision by Brad Edwards was grounded in proper litigation judgment about the need to pursue effective discovery against Epstein, particularly in the face of Epstein's stonewalling tactics. Epstein also knew that he suffered no legally cognizable injury proximately caused by the falsely alleged wrongdoing on the part of Edwards. Moreover, Epstein had no intention of waiving his Fifth Amendment privilege against self-incrimination in order to avoid providing relevant and material discovery that Epstein would need in the course of prosecuting his claims and to which Edwards was entitled in defending those claims. Epstein knew that his prosecution of his claims would be barred by the sword-shield doctrine. Most significantly, the evidence submitted in the supporting papers would compel a fact finder to determine that Epstein had no basis in law or in fact to pursue his claims against Edwards and that Epstein was motivated by a single ulterior motive to attempt to intimidate Edwards and his clients and others into abandoning or settling their legitimate claims for less than their just and reasonable value. The evidence demonstrates that Epstein did not file these claims for the purpose of collecting money damages since he knew that he never suffered any damage as a consequence of any alleged wrongdoing by Edwards but filed the claim to require Edwards to expend time, energy and resources on his own defense, to embarrass Edwards and impugn his integrity and deter others with legitimate claims against Epstein from pursuing those claims. Indeed, the evidence demonstrates that Epstein continued to pursue his claims by filing the Second Amended Complaint alleging abuse of process against Edwards *even after* he had paid significant sums in settlement of the claims instituted by Mr. Edwards' clients against Mr. Epstein.¹

¹ The evidence marshalled in support of these assertions is set forth in the previously filed documents in this Court. Those documents include Exhibit "A" – Edwards' Statement of Undisputed Facts; Exhibit "B" – Edwards' Renewed Motion for Summary Judgment; Exhibit "C" – Edwards' October 19, 2012 Second Renewed Motion for Leave to Assert Claim for Punitive Damages; Exhibit "D" – Edwards' Notice of Filing of Transcript of Telephone Interview of ██████████ in Support of Motion for Leave to Amend to Assert Punitive Damages; Exhibit "E" – Transcript of Deposition of Jeffrey Epstein dated January 25, 2012; Exhibit "F" – Deposition of Bradley Edwards dated March 23, 2010; Exhibit "G" – Deposition of Scott Rothstein dated June 14, 2012; Exhibit "H" – Order of

The record reflects that on the eve of the hearing of Edwards' Motion for Summary Judgment directed to the Second Amended Complaint and in light of the compelling evidence of the lack of any wrongdoing on the part of Mr. Edwards, the sole remaining abuse of process claim was dismissed by Epstein.

As discussed, *infra* each of the grounds asserted by Epstein in this Motion for Summary Judgment must be rejected. The litigation privilege does not serve as a bar to the prosecution of Edwards' claims against Epstein. Moreover, the evidence submitted by Edwards supports each of the elements of the claims asserted by Edwards against Epstein which are identified in Epstein's Motion.

Response to Epstein's Statement of Undisputed Facts

The evidence marshalled by Edwards in support of his claims against Epstein which are referenced in footnote 1 mandates the conclusion that, at a minimum, disputed facts exist with respect to the elements of each claim addressed by Epstein in his Motion. The facts presented in the various papers would allow the jury to make a determination that Epstein knew that Brad Edwards properly exercised his legitimate judgment regarding the need to pursue proper and effective discovery against him to support the claims which Epstein knew were legitimate. That evidence, referenced herein, further demonstrated that Epstein filed his claims without probable cause and further that there was a bonafide termination in favor of Edwards. That evidence further demonstrates that the elements of the claim of abusive process have been established.

The following additional comments are directed at some of the key purported "undisputed" material facts asserted by Epstein, especially those referenced in his Memorandum of Law. Also set forth are key evidentiary matters which undermine Epstein's contentions and which support the proposition that material issues of fact exist which compel the denial of the Motion for Summary Judgment.

Judge Crow dated March 29, 2012; Exhibit "I" – Deposition of Bradley Edwards dated October 10, 2013; Exhibit "J" – Deposition of Bradley Edwards dated May 15, 2013.

None of the public materials identified by Epstein in his Motion make reference to any wrongdoing by Brad Edwards. Rather, Epstein seeks to pyramid one impermissible inference upon another from his citation to these materials to support his otherwise unsubstantiated and non-verifiable conclusion that he had sufficient evidence to proceed with claims of wrongdoing against Edwards. In truth, as reflected in Edwards' deposition and his supplemental affidavit, he has no involvement in any fraud perpetrated by Rothstein (Edwards' deposition of March 23, 2010 at 301-302; Edwards Affidavit attached to Statement of Undisputed Facts as Exhibit "N" at paragraphs 8-10, paragraph 20, paragraphs 22-23; Exhibit "H" – Deposition of Scott Rothstein at pp. 62-63, 114, and 121-124). Therefore, any allegations relating to ████████ activities simply have no bearing on the legitimacy of any of the claims against Edwards. Edwards could not have possibly "pumped" cases to investors when he never participated in any communications with investors. Rather, Edwards had a duty to his clients to zealously pursue discovery to achieve a maximum recovery against Epstein. Edwards cannot be liable for taking appropriate action that his ethical duties as an attorney required. The evidence also reflects that Edwards filed all three of his cases almost a year before he was hired by RRA or even knew Scott Rothstein (Edwards' Affidavit, Exhibit "N" attached to Statement of Undisputed Facts). The language set forth in his Complaints remain virtually unchanged from the first filing in 2008 and, as the evidence shows, the claims asserted against Epstein from the outset were true. The citation to public documents is a convenient ruse; Epstein was not only liable for the molestation of the clients of Brad Edwards, he was also a serial molester of minors – even as young as twelve years of age (Exhibit "A" – Edwards' Statement of Undisputed Material Facts paragraphs 1-43; Exhibit "D" – Statement of ████████ pp. 16-17). Epstein entered a plea of guilty to felony charges involving prostitution and the solicitation of a minor for the purposes of prostitution (Exhibit "E" – Deposition of Jeffrey Epstein, March 17, 2010, pp. 101-103). Epstein also entered into an agreement with the United States ████████ Office acknowledging that approximately 34 other young girls could receive payments from him under the

Federal Statute providing for compensation to victims of child abuse.. (Exhibit "A" – Edwards' Statement of Undisputed Material Facts, paragraphs 41-43).

On July 6, 2010 Epstein ultimately paid to settle all three of the cases Edwards had filed against him (Exhibit "A" – Edwards' Statement of Undisputed Material Facts, paragraphs 84-85). At Epstein's request, the terms of the settlement were kept confidential. The sum that he paid to settle all these cases in therefore not filed with this pleading and will be provided to the court for in camera review. Epstein chose to make this payment as a result of a Federal Court ordered mediation process which he himself sought. Epstein entered into the settlements in July 2010 more than seven months after he filed his lawsuit against Edwards and before he filed his Second Amended Complaint alleging abuse of process on August 22, 2011.

Further, Epstein could not have been the victim of any scheme to pump the cases against him because he never paid to settle the cases until well after Edwards had left RRA and severed all connection with Rothstein in December 2009 (Edwards' Affidavit attached to Statement of Undisputed Facts as Exhibit "N," paragraph 20). Moreover, Epstein could not have suffered any damage as a result of the perpetration of the Ponzi scheme by Rothstein because he was not an investor in the scheme.

Perhaps the most significant evidence presented in opposition to Epstein's Motion for Summary Judgment is the telephone interview of [REDACTED] submitted in Support of Edwards' Motion for Punitive Damages (Exhibit "D"). In addition to the specious claims against Edwards relating to his alleged involvement in a Ponzi scheme, Epstein, in asserting his claims, primarily relied upon the pursuit by Edwards of testimony from his close friends and associates (See Second Amended Complaint, paragraph 32, pp. 11-13). Reliance on these assertions is also threaded through Epstein's Motion for Summary Judgment in his citation to the public documents referencing the pursuit of such discovery. But as set forth in detail in Edwards' Motion for Final Summary Judgment (Exhibit "B") at pages 14-16, that discovery was entirely appropriate and Epstein knew it. Specifically, as reflected in the statement of

undisputed facts submitted by Mr. Edwards in support of his Motion for Summary Judgment, Edwards had a sound legal basis for believing that Donald Trump, Allen Dershowitz, Bill Clinton, Tommy Mattola, David Copperfield and Governor Bill Richardson had relevant and discoverable information (Exhibit "A" – Edwards' Statement of Undisputed Facts, paragraphs 69-81). That belief was reinforced by the testimony of [REDACTED] (Exhibit "D" pp. 10-17, 21-23). Epstein's assertion of impropriety in the pursuit of this discovery clearly evidences his bad faith attempts to attribute wrongdoing to Edwards when he knew, in fact, that the pursuit of that discovery was entirely appropriate under the circumstances of this case.

Finally, any attempt by Epstein to rely upon what he claims are undisputed facts to support his Motion for Summary Judgment are undermined by his refusal to provide any testimony on the key issues and evidence which would demonstrate the validity and strength of each of the claims brought against him by Brad Edwards. Epstein's depositions of March 17, 2010 and January 25, 2012 were replete with refusals of Epstein to testify based upon his Fifth Amendment privilege. Questions that Epstein refused to answer in his depositions and the reasonable inferences that a fact finder would draw and which would otherwise bear on the arguments submitted by Epstein in support of his Motion for Summary Judgment are as follows:

- Question not answered: "I want to know whether you have any knowledge of evidence that Bradley Edwards personally ever participated in devising a plan through which were sold purported confidential assignments of a structured payout settlement?" Reasonable inference: No knowledge that Brad Edwards ever participated in the Ponzi scheme.
- Question not answered: "Specifically what are the allegations against you which you contend Mr. Edwards ginned up?" Reasonable inference: No allegations against Epstein were ginned up.
- Question not answered: "Well, which of Mr. Edwards' cases do you contend were fabricated?" Reasonable inference: No cases filed by Edwards against Epstein were fabricated.

- Question not answered: “Did sexual assaults ever take place on a private airplane on which you were a passenger?” Reasonable inference: Epstein was on a private airplane while sexual assaults were taking place.
- Question not answered: “How many minors have you procured for prostitution?” Reasonable inference: Epstein has procured multiple minors for prostitution.
- Question not answered: “Is there anything in L.M. █ Complaint that was filed against you in September of 2008 which you contend to be false?” Reasonable inference: Nothing in L.M. █ complaint filed in September of 2008 was false – i.e., as alleged in L.M. █ complaint, Epstein repeatedly sexually assaulted her while she was a minor and she was entitled to substantial compensatory and punitive damages as a result.
- Question not answered: “I would like to know whether you ever had any physical contact with the person referred to as Jane Doe in that [federal] complaint?” Reasonable inference: Epstein had physical contact with minor Jane Doe as alleged in her federal complaint.
- Question not answered: “Did you ever have any physical contact with E.W.?” Reasonable inference: Epstein had physical contact with minor E.W. as alleged in her complaint.
- Question not answered: “What is the actual value that you contend the claim of E.W. against you has?” Reasonable inference: E.W. █ claim against Epstein had substantial actual value.

(See Exhibit “A” – Edwards’ Statement of Undisputed Material Facts, paragraphs 93-120 for page references.)

A jury could conclude, therefore, from the adverse inferences drawn against Epstein that he was liable for the claims brought by Brad Edwards and that he had no basis for the pursuit of his efforts to intimidate and extort Edwards and his clients in the pursuit of those claims.

The Litigation Privilege Does Not Bar the Claims of Abuse of Process and Malicious Prosecution

Epstein contends he is entitled to absolute immunity pursuant to the litigation privilege as to both claims asserted by Edwards because all actions taken by him occurred during the litigation of his abuse of process claim against Edwards. For support, he relies primarily on the decision of *Wolfe v. Foreman*, 2013 WL 3724763 (Fla. 3d DCA July 17, 2013), wherein the Third District found that the litigation privilege barred both an abuse of process claim and a malicious prosecution cause of action. *Wolfe* is still

on rehearing and, thus, is not a final opinion. As a result, it is not binding, nor persuasive. Moreover, *Wolfe* undercuts the long-standing recognition of the viability of a claim for malicious prosecution in its own District and other Florida state and federal courts. *See, SCI Funeral Svs. of Fla., Inc. v. Henry*, 839 So. 2d 702, n.4 (Fla. 3d DCA 2002) (“As the *Levin* court cited *Wright v. Yurko*, 446 So. 2d 1162, 1165 (Fla. 5th DCA, 1984), with approval, presumably the cause of action for malicious prosecution continues to exist and would not be barred by the litigation privilege.”); *Boca Investors Group, Inc. v. Potash*, 835 So. 2d 273, 275 (Fla. 3d DCA 2002) (Cope, J., concurring) (litigation privilege would not be a bar to a malicious prosecution action); *North Star Capital Acquisitions, LLC v. Krig*, 611 Fed. Supp. 2d 1324 (M.D. Fla. 2009) (“However, not every event bearing any relation to litigation is protected by the privileged because,... “if the litigation privilege applied to all actions preliminary to or during judicial proceedings, an abuse of process claim would never exist, nor would a claim for malicious prosecution”); *Cruz v. Angelides*, 574 So. 2d 278 (Fla. 3d DCA 1991)(“the law is well settled that a witness in a judicial proceeding,... is absolutely immune from any civil liability, save perhaps malicious prosecution, for testimony or other sworn statements which he or she gives in the course of the subject proceeding.”); *Johnson v. Libow*, 2012 WL 4068409 (Fla. 15th Jud. Cir. March 1, 2012)(the purpose of the litigation privilege does not preclude the tort of malicious prosecution).

In *Wright v. Yurko supra*, the Fifth District Court of Appeal rejected the application of the litigation privilege to a malicious prosecution action brought by a physician against his patients and an expert after he successfully defended a malpractice claim. Also of significance is the Second [REDACTED] opinion in *Olson v. Johnson*, 961 So. 2d 351 (Fla. 2d DCA 2007). In that case, the court observed that the litigation (or judicial) privilege would not apply to bar a malicious prosecution action which arose as a result of a false accusation of criminal liability where the prosecution was based, in part, on the testimony of the defendants in the criminal case. The court ruled that the privilege (either absolute or qualified)

which might otherwise apply to a defamation claim for statements made during the course of a judicial proceeding did not bar a malicious prosecution claim.

In light of the implicit recognition by the Supreme Court in *Levin* that a claim of malicious prosecution is not barred by the litigation privilege – an implicit recognition acknowledged by the Third District itself – Epstein's reliance on *Wolfe* is misplaced. *Wolfe* is also factually distinguishable from Edwards' claims against Epstein. *Wolfe* involved a malicious prosecution action against attorneys. Separate policy considerations might serve to impose additional limitations on the assertion of malicious prosecution claims against attorneys – against whom alternative remedies exist such as bar disciplinary proceedings. See *Taylor v. McNichols*, 243 P.2d 642 (Idaho 2010). Moreover, in light of the decisions in *Wright v. Yurko*, *supra* and *Olson v. Johnson*, *supra*, the weight of authority supports the proposition that the litigation privilege would not apply to malicious prosecution claims.

Both the Third and Fourth Districts have applied the litigation privilege to abuse of process claims. However, *Wolfe* itself, and the decisions of the Third and Fourth Districts cited in *Wolfe*, involved the litigation privilege as applied to claims of abuse of process by attorneys. None of the cases involved the extraordinary actions of an individual party like Epstein who carried out a course of action against Plaintiff's counsel with a singular purpose unrelated to any legitimate judicial goal. Under the compelling facts of this case, where the actions of Epstein are coupled with the elements of malice and absence of probable cause arising from the unfounded filing of the claims against Edwards, the litigation privilege should not have any applicability to the abuse of process claim asserted by Edwards.

There are Disputed Issues of Fact Precluding Summary Judgment on the Abuse of Process Claim

An abuse of process claim requires pleading and proof of the following three elements: 1) that the defendant made an illegal, improper or perverted use of process; 2) that the defendant had ulterior motives or purposes in exercising such illegal, improper, or perverted use of process; and 3) that, as a result of such action on the part of the defendant, the plaintiff suffered damage." See [REDACTED] *Invs. v. Payless*

Flea Mkt., 36 So. 3d 909, 917 (Fla. 4th DCA 2010)(citation omitted). The case law is clear that on an abuse of process claim a “plaintiff must prove that the process was used for an immediate purpose other than that for which it was designed.” *Id.* (citation omitted). Where the actions taken by a party in a particular lawsuit are designed to coerce another into taking some collateral action not properly involved in the proceeding a claim of abuse of process is stated. *Miami Herald Publishing Company v. Ferre*, 8636 F. Supp. 970 (██████ Fla. 1985).

In a case for abuse of process, the question of whether the ████████ case satisfies the requisite elements is largely a question for a jury. *See* Patrick John McGinley, 21 Fla. Prac., Elements of an Action § 50:1 (2013-2014 ed.)(citing *Gatto v. Publix Supermarket, Inc.*, 387 So. 2d 377 (Fla. 3d DCA 1980)).

The usual case of abuse of process involves some form of extortion. *Scozari v. Barone*, 546 So. 2d 750, 751(Fla. 3d DCA 1989) (citing *Bothmann v. Harrington*, 458 So. 2d 1163, 1169 (Fla. 3d DCA 1984)). That is *exactly* what has transpired here. Epstein employed the extraordinary financial resources at his disposal to intimidate his molestation victims and Edwards into abandoning their legitimate claims or resolving those claims for substantially less than their just and reasonable value. Consequently, since Epstein’s sole purpose and ulterior motive for filing the complaint without probable cause was in an effort to extort, to wit: to force his molestation victims and Edwards to settle for minimal amounts, that filing and everything subsequently done to pursue the claims constitutes an abuse of process. *See* Exhs. A at 18-27, C at 4-7. Because Edwards has conclusively demonstrated that Epstein’s actions in pursuing his claims were designed to coerce Edwards (and his client) to take some collateral action not properly involved in the proceedings and did so with an ulterior purpose, summary judgment directed at the abuse of process claim must fail. The damages suffered by Edwards include: (a) injury to his reputation; (b) mental anguish, embarrassment and anxiety; (c) fear physical injury to himself and members of his family; (d) the loss of the value of his time required to be diverted from his professional responsibility; and (e) the cost of defending against Epstein’s spurious and baseless claims. All the elements of the

claim for abuse of process have been satisfied. This case, then, falls within the parameters of the Third [REDACTED] Decision in *Scozari v. Barone, supra* in which the court reversed the entry of summary judgment for the defendant on claims of malicious prosecution and abuse of process. With respect to the abuse of process claim, the court stated that “if there was no reasonable basis in law and fact to bring the action to impress a lien on property, and this was done without any reasonable justification under law and to force or compel the appellant to resolve some custody dispute, induce the appellant to pay money, or tie up the [REDACTED] property, then there has been an abuse of process.” *Id* at 752.

There are Disputed Issues of Fact Precluding Summary Judgment on the Claim of Malicious Prosecution

Here, Epstein’s voluntary dismissal of his abuse of process claims against Edwards amounted to a bona fide termination of the proceedings. He knew his allegations were unsupported by evidence (See discussion above at pages 3-6). Knowing he lacked *any* verifiable evidence against Edwards, on the eve of the summary judgment hearing, Epstein effectively conceded that fact by voluntarily dismissing his claims. Hence, it is evident that Epstein took voluntary dismissal of his claims because he knew he did not have probable cause or an evidentiary basis to support the allegations. *See Cohen v. Corwin*, 980 So. 2d 1153 at 1156 (citing *Union Oil of California, Amsco Division v. Watson*, 468 So. 2d 349 at 354 (stating that “where a dismissal is taken because of insufficiency of the evidence, the requirement of a favorable termination is met”)). Accordingly, the manner of termination reflects on the merits of the case and there was a bona fide termination of Epstein’s civil proceeding against Edwards (See Judge [REDACTED] Order of March 29, 2012 denying Motion to Dismiss re: Issue of Bonafide Termination attached as Exhibit “H”).

Epstein’s only other issue with Edwards’ counterclaim for malicious prosecution is that he did not lack probable cause in pursuing his claims against Edwards. As established by the record, Epstein did, in fact, lack probable cause to assert his claims against Edwards (See discussion above). Epstein’s purported

reliance on public filings, including the Scherer Complaint against Rothstein is unavailing. As discussed above, the evidence warrants the finding that Epstein knew that Edwards was legitimately pursuing the claims on behalf of his clients which included the effort to secure testimony from Epstein's close confidants. Therefore, Epstein cannot rely upon the referenced public documents to support his claims against Edwards given that he knows that information to be untrue and he refuses to answer questions about the veracity of the information. *See* Exh. G at pgs. 53:6-24; 78:16-24; 87:20-88:14. Consequently, Epstein had no good faith basis to rely on such information.

Epstein's Assertion of his Fifth Amendment Privilege Gives Rise to Adverse Inferences Pertinent to His Motion for Summary Judgment and Precludes His Reliance on Purported Undisputed Facts

As discussed above, Epstein's multiple invocations of his Fifth Amendment Privilege results in adverse inferences which directly impact the issues advanced in his Motion for Summary Judgment. "It is well settled that the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them." *Baxter v. Palmigiano*, 425 ████ 308, 318 (1976); *Accord, Vasquez v. State*, 777 So. 2d 1200, 1203 (Fla. at 2001). The reason for this rule "is both logical and utilitarian. A party may not trample upon the rights of others and then escape the consequences by invoking a constitutional privilege – at least not in a civil setting." *Fraser v. Security and INV. Corp.*, 615 So. 2d. 841, 842 (Fla. 4th DCA 1993). The adverse inferences drawn from Epstein's assertion of the Fifth Amendment undercut his claim of justifiable reliance based upon the purported undisputed material facts to support his Motion for Summary Judgment.

Moreover, because Epstein elected to hide behind the shield of his right against self-incrimination to preclude his disclosing any relevant information about the criminal activity at the center of his claims, he was effectively barred from prosecuting his abuse of process claim against Edwards. Similarly, Epstein should be barred from utilizing the Fifth Amendment privilege to secure summary judgment based upon assertions of fundamental facts when Epstein refused to testify on essential issues pertinent to the

arguments advanced in support of his Motion for Summary Judgment. Under the well-established “sword and shield” doctrine, Epstein could not seek damages from Edwards while at the same time asserting a Fifth Amendment privilege to block relevant discovery. *See* Exhs. B at 14-21, C at 18-25, G at 53:6-24; 78:16-24; 87:20-88:14. The same policies which underlie the sword and shield doctrine as applied to the recovery of affirmative relief should also apply to attempts to advance positions with respect to a Motion for Summary Judgment which would have the effect of securing relief against certain claims.

“[T]he law is well settled that a plaintiff is not entitled to both his silence and his lawsuit.” *Boys & Girls Clubs of Marion County, Inc. v. J.A.*, 22 So. 3d 855, 856 (Fla. 5th DCA 2009)(Griffin, J., concurring specially). Thus, “a person may not seek affirmative relief in a civil action and then invoke the fifth amendment to avoid giving discovery, using the fifth amendment as both a ‘sword and a shield.’” *DePalma v. DePalma*, 538 So. 2d 1290, 1290 (Fla. 4th DCA 1989)(quoting *DeLisi v. Bankers Insurance Co.*, 436 So. 2d 1099 (Fla. 4th DCA 1983)). Put another way, “[a] civil [REDACTED] fifth amendment right to avoid self-incrimination may be used as a shield but not a sword. This means that a plaintiff seeking affirmative relief in a civil action may not invoke the fifth amendment and refuse to comply with the [REDACTED] discovery requests, thereby thwarting the [REDACTED] defenses.” *Rollins Burdick Hunter of New York, Inc. v. Euroclassic Limited, Inc.*, 502 So. 2d 959 (Fla. 3d DCA 1983).. For the same reasons, Epstein should be precluded from advancing arguments based on purported statements of undisputed fact which cannot be effectively challenged in light of his assertion of the Fifth Amendment. Epstein has done precisely what well-established law prohibits.

Conclusion

Based upon the foregoing, the Defendant, Counter-Plaintiff, Bradley Edwards respectfully submits that Jeffrey Epstein’s Motion for Summary Judgment must be denied.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 17th day of January, 2014.



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IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

Case No.:50 2009 CA 040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendants,

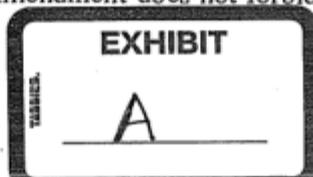
STATEMENT OF UNDISPUTED FACTS

Defendant Bradley J. Edwards, Esq., offers the following specific facts as the undisputed material facts in this case. Each of the following facts is numbered separately and individually to facilitate Epstein's required compliance with Fla. R. Civ. P. 1.510(c) ("The adverse party shall identify . . . any summary judgment evidence on which the adverse party relies."). All referenced exhibits and attachments have previously been filed with the Court and provided to Epstein.

Sexual Abuse of Children By Epstein

1. Defendant Epstein has a sexual preference for young children. Deposition of Jeffrey Epstein, Mar. 17, 2010, at 110 (hereinafter "Epstein Depo.") (Deposition Attachment #1).¹

¹ When questioned about this subject at his deposition, Epstein invoked his Fifth Amendment right to remain silent rather than make an incriminating admission. Accordingly, Edwards is entitled to the adverse inference against Epstein that, had Epstein answered, the answer would have been unfavorable to him. "[I]t is well-settled that the Fifth Amendment does not forbid adverse inferences against parties to



2. Epstein repeatedly sexually assaulted more than forty (40) young girls on numerous occasions between 2002 and 2005 in his mansion in West Palm Beach, Florida. These sexual assaults included vaginal penetration. Epstein abused many of the girls dozens if not hundreds of times. Epstein Depo. at 109 (“Q: How many times have you engaged in oral sex with females under the age of 18?” A: [Invocation of the Fifth Amendment]); Deposition of Jane Doe, September 24, 2009 and continued March 11, 2010, at 527 (minor girl sexually abused at least 17 times by Epstein) (hereinafter “Jane Doe Depo”) (Deposition Attachment #2); *id.* 564-67 (vaginal penetration by Epstein with his finger), 568 (vaginal penetration by Epstein with a massager); Deposition of L.M., September 24, 2009, at 73 (hereinafter “L.M. Depo”) (Deposition Attachment #3) (describing the manner in which Epstein abused her beginning when LM was 13 years old, touching her vagina with his fingers and vibrator) at 74, line 12-13 (she was personally molested by Epstein more than 50 times), at 164, line 19-23 and 141, line 12-13 and 605, line 3-6 (describing that in addition to being personally molested by Epstein she was paid \$200 per underage girl she brought Epstein and she brought him more than seventy (70) underage girls - she told him that she did not want to bring him any more girls and he insisted that she continue to bring him underage girls); Deposition of E.W., May 6, 2010 (hereinafter “E.W. Depo”) (Deposition Attachment #4) at 115-116, 131 and 255 (describing Epstein's abuse of her beginning at age 14 when he paid her for touching her vagina, inserting his fingers and

civil actions when they refuse to testify in response to probative evidence offered against them.” *Baxter v. Palmigiano*, 425 █. 308, 318 (1976); *accord Vasquez v. State*, 777 So.2d 1200, 1203 (Fla. App. 2001). The reason for this rule “is both logical and utilitarian. A party may not trample upon the rights of others and then escape the consequences by invoking a constitutional privilege – at least not in a civil setting.” *Fraser v. Security and Inv. Corp.*, 615 So.2d 841, 842 (Fla. App. 1993).

using a vibrator and he also paid her \$200 for each other underage female E.W. brought him to molest. She brought him between 20 and 30 underage females); Deposition of Jane Doe #4, date (hereinafter "Jane Doe #4 Depo") (Deposition Attachment #5) at 32-34, and 136 (she describes first being taken to Epstein at 15 years old, "Being fingered by him, having him use a vibrator on [me], grabbing my nipples, smelling my butt, jerking off in front of me, licking my clit, several times.").

3. At all relevant times Edwards has had a good faith basis to conclude and did conclude² that Epstein was able to access a large number of underage girls through a pyramid abuse scheme in which he paid underage victims \$200-\$300 cash for each other underage victim that she brought to him. See Palm Beach Police Incident Report at 87 (hereinafter "Incident Report") (Exhibit "A").³ The Palm Beach Police Incident Report details Epstein's scheme for molesting underage females. Among other things, the Incident Report outlines some of the experiences of other Epstein victims. When ■■■, a 14 year old minor at the time, was brought to Epstein's home, she was taken upstairs by a woman she believed to be Epstein's assistant. The woman started to fix up the room, putting covers on the massage table and bringing lotions out. The "assistant" then left the room and told ■■■ that Epstein would be up in a second. Epstein walked over to ■■■ and told her to take her clothes off in a stern voice. ■■■ states in the report she did not know what to do, as she was the only one there. ■■■ took off her shirt, leaving her bra on. Epstein, then in a towel told her to take off everything. ■■■ removed her pants leaving

² In support of all assertions concerning the actions Edwards took, what Edwards learned in the course of his representation of his clients, ■■■ good faith beliefs and the foundation for those beliefs, see Edwards Affidavit and specifically paragraphs 25 and 25 of that Affidavit.

³ For clarity, depositions attached to this memorandum will be identified numerically as attachments #1, #2, #3, etc., while exhibits attached to this memorandum will be identified alphabetically as exhibits A, B, C, etc.

on her thong panties. Epstein then instructed [REDACTED] to give him a massage. As [REDACTED] gave Epstein a massage, Epstein turned around and masturbated. [REDACTED] was so disgusted, she did not say anything; Epstein told her she “had a really hot body.” *Id.* at 14. In the report, [REDACTED] admitted seeing Jeffrey Epstein’s penis and stated she thought Epstein was on steroids because he was a “really built guy and his wee wee was very tiny.” *Id.* at 15.

4. The exact number of minor girls who Epstein assaulted is known only to Epstein. However, Edwards had a good faith basis to believe and did in fact believe that Epstein’s victims were substantially more than forty (40) in number. In addition to the deposition excerpts from two of his many victims above about the number of underage girls brought to Epstein and the Palm Beach incident report, there is overwhelming proof that the number of underage girls molested by Epstein through his scheme was in the hundreds. *See* Complaint, Jane Doe 102 v. Epstein, (hereinafter Jane Doe 102 complaint) (Exhibit “B”); *see also* Deposition of Jeffrey Epstein, April 14, 2010, at 442, 443, and 444 (Epstein invoking the 5th on questions about his daily abuse and molestation of children) (Deposition Attachment #6).

5. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that Epstein and his attorneys knew of the seriousness of the criminal investigation against him and corresponded constantly with the United States [REDACTED] Office in an attempt to avoid the filing of numerous federal felony offenses, which effort was successful. *See* Correspondence from [REDACTED]. [REDACTED] Office to Epstein (hereinafter “[REDACTED]. [REDACTED] Correspondence”) (Composite Exhibit “C) (provided in discovery during the Jane Doe v. Epstein case).

6. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that, more specifically, Epstein's attorneys knew of Epstein's scheme to recruit minors for sex and also knew that these minors had civil actions that they could bring against him. In fact, there was much communication between Epstein's attorneys and the United States Prosecutors in a joint attempt to minimize Epstein's civil exposure. For example, on October 3, 2007, Assistant [REDACTED]. Attorney Marie Villafañá sent an email (attached hereto as Exhibit "D") to Jay Lefkowitz, counsel for Epstein, with attached proposed letter to special master regarding handling numerous expected civil claims against Epstein. The letter reads in pertinent part,

"The undersigned, as counsel for the United States of America and Jeffrey Epstein, jointly write to you to provide information relevant to your service as a Special Master in the selection of an attorney to represent several young women who may have civil damages claims against Mr. Epstein. The [REDACTED]. [REDACTED] Office and the Federal Bureau of Investigation (jointly referred to as the "United States") have conducted an investigation of Jeffrey Epstein regarding his solicitation of minor females in Palm Beach County to engage in prostitution. Mr. Epstein, through his assistants, would recruit underage females to travel to his home in Palm Beach to engage in lewd conduct in exchange for money. Based upon the investigation, the United States has identified forty (40) young women who can be characterized as victims pursuant to 18 USC 2255. Some of those women went to Mr. Epstein's home only once, some went there as much as 100 times or more. Some of the [REDACTED] conduct was limited to performing a topless or nude massage while Mr. Epstein masturbated himself. For other women, the conduct escalated to full sexual intercourse. As part of the resolution of the case, Epstein has agreed that he would not contest jurisdiction in the Southern District of Florida for any victim who chose to sue him for damages pursuant to 18 USC 2255. Mr. Epstein agreed to provide an attorney for victims who elected to proceed exclusively pursuant to that section, and agreed to waive any challenge to liability under that section up to an amount agreed to by the parties. The parties have agreed to submit the selection of an attorney to a Special Master...."

7. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that L.M. was, in fact, a victim of Epstein's criminal abuse because L.M. was one of the

minor females that the United States ██████ Office recognized as a victim. L.M. ██████ sworn deposition testimony and the adverse inference drawn from Epstein's refusal to testify confirm that Epstein began sexually assaulting L.M. when she was 13 years old and continued to molest her on more than fifty (50) occasions over three (3) years. Epstein Depo., Attachment #1, at 17 ("Q: Did you . . . ever engage in any sexual conduct with L.M.?" A: [Invocation of the Fifth Amendment]); *see also* Epstein Depo., April 14, 2010, Attachment #6, at 456 ("Q: LM was an underage female that you first abused when she was 13 years old; is that correct?" A: [Invocation of Fifth Amendment].)

8. Epstein was also given ample opportunity to explain why he engaged in sexual activity with L.M. beginning when L.M. was 13 years old and why he has molested minors on an everyday basis for years, and he invoked his 5th amendment right rather than provide explanation. *See* Epstein Deposition, February 17, 2010, at 11-12, 30-31 (Deposition Attachment # 7).

9. Epstein also sexually assaulted E.W., beginning when she was 14 years old and did so on numerous occasions. *See* E.W. Depo., Attachment #4 at 215-216.

10. Another of the minor girls Epstein sexually assaulted was Jane Doe; the abuse began when Jane Doe was 14 years old. Rather than incriminate himself, Epstein invoked the 5th amendment to questions about him digitally penetrating ██████ vagina, using vibrators on her vagina and masturbating and ejaculating in her presence. Epstein Depo., April 14, 2010, Attachment #6, at 420, 464, 468.

11. When ██████ clients L.M., E.W., and Jane Doe were 13 or 14 years old, each was brought to Epstein's home multiple times by another underage victim. Epstein engaged in

one or more of the following acts with each of the then-minor girls at his mansion: receiving a topless or completely nude massage; using a vibrator on her vagina; masturbating in her presence; ejaculating in her presence; touching her breast or buttocks or vagina or the clothes covering her sexual organs; and demanding that she bring him other underage girls. Epstein and his co-conspirators used the telephone to contact these girls to entice or induce them into going to his mansion for sexual abuse. Epstein also made E.W. perform oral sex on him and was to perform sex acts on [REDACTED] [REDACTED] (Epstein's live-in sex slave) in Epstein's presence. See Plaintiff Jane [REDACTED] Notice Regarding Evidence of Similar Acts of Sexual Assault, filed in Jane Doe v. Epstein, No. 08-cv-80893 ([REDACTED] Fla. 2010), as DE 197, (hereinafter "Rule 413 Notice") (Exhibit "E"); Jane Doe Depo., Attachment #2, at 379-380; L.M. Depo., Attachment #3, at 416; E.W. Depo, Attachment #4, at 205.

12. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that yet another of the minor girls Epstein sexually assaulted was C.L. When she was approximately 15 years old, C.L. was brought to Epstein's home by another underage victim. While a minor, she was at Epstein's home on multiple occasions. Epstein engaged in one or more of the following acts with her while she was a minor at his house - topless or completely nude massage on Epstein; Epstein used a vibrator on her vagina; Epstein masturbated in her presence; Epstein ejaculated in her presence; Epstein also demanded that she bring him other underage girls. See Rule 413 Notice, Exhibit "E"; Incident Report, Exhibit "A."

13. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that yet another girl Epstein sexually assault was A.H. When she was approximately 16 years old, she was brought to Epstein's home by another underage victim. While a minor, she

was at Epstein's home on multiple occasions. Epstein engaged in one or more of the following acts with her while she was a minor at his house - topless or completely nude massage on Epstein; Epstein used a vibrator on her vagina; Epstein masturbated in her presence; Epstein ejaculated in her presence; Epstein touched her breast or buttock or vagina or the clothes covering her sexual organs; was made to perform sex acts on Epstein; made to perform sex acts on [REDACTED] [REDACTED] in Epstein's presence. Epstein also forcibly raped this underage victim, as he held her head down against her will and pumped his penis inside her while she was screaming "No". See Rule 413 Notice, Exhibit "E"; Incident Report, Exhibit "A", at 41 (specifically discussing the rape):

"[A.H.] remembered that she climaxed and was removing herself from the massage table. [A.H.] asked for a sheet of paper and drew the massage table in the master bathroom and where Epstein, [REDACTED] and she were. Epstein turned [A.H.] on to her stomach on the massage bed and inserted his penis into her vagina. [A.H.] stated Epstein began to pump his penis in her vagina. [A.H.] became upset over this. She said her head was being held against the bed forcibly, as he continued to pump inside her. She screamed no, and Epstein stopped"

"[A.H.] advised there were times that she was so sore when she left Epstein's house. [A.H.] advised she was ripped, torn, in her vagina area. [A.H.] advised she had difficulty walking to the car after leaving the house because she was so sore."

14. Without detailing each fact known about Epstein's abuse of the many underage girls, Edwards has had a good faith basis to believe and did in fact believe at all relevant times that Epstein also abused other victims in ways closely similar to those described in the preceding paragraphs. Epstein's additional victims include the following (among many other) young girls: [REDACTED]; A.D.; V.A.; N.R.; [REDACTED]; V.Z.; J.A.; F.E.; M.L.; M.D.; D.D.; and D.N. These girls were between the ages of 13 and 17 when Epstein abused them. See Rule 413 Notice, Exhibit E; Deposition of E.W., Deposition Attachment #4.

15. One of Mr. Epstein's household employees, Mr. Alfredo Rodriguez, saw numerous underage girls coming into Epstein's mansion for purported "massages." See Rodriguez Depo. at 242-44 (Deposition Attachment #8). Rodriguez was aware that "sex toys" and vibrators were found in Epstein's bedroom after the purported massages. *Id.* at 223-28. Rodriguez thought what Epstein was doing was wrong, given the extreme youth of the girls he saw. *Id.* at 230-31..

16. Alfredo Rodriguez took a journal from Epstein's computer that reflected many of the names of underage females Epstein abused across the country and the world, including locations such as Michigan, California, West Palm Beach, New York, New Mexico, and Paris, France. See Journal (hereinafter "The Journal" or "Holy Grail") (Exhibit "F") (identifying, among other Epstein acquaintances, females that Rodriguez believes were underage under the heading labeled "Massages").

17. Rodriguez was later charged in a criminal complaint with obstruction of justice in connection with trying to obtain \$50,000 from civil attorneys pursuing civil sexual assault cases against Epstein as payment for producing the book to the attorneys. See Criminal Complaint at 2, [REDACTED] v. Rodriguez, No. 9:10-CR-80015-KAM ([REDACTED] Fla. 2010) (Exhibit "G"). Rodriguez stated he needed money because the journal was his "property" and that he was afraid that Jeffrey Epstein would make him "disappear" unless he had an "insurance policy" (i.e., the journal). *Id.* at 3. Because of the importance of the information in the journal to the civil cases, Mr. Rodriguez called it "The Holy Grail."

18. In the "Holy Grail" or "The Journal," among the many names listed (along with the abused girls) are some of the people that Epstein alleges in his Complaint had "no connection

whatsoever” with the litigation in this case. *See, e.g.*, Journal, Exhibit F, at 85 (Donald Trump); at 9 (Bill Clinton phone numbers listed under “Doug Bands”).

Federal Investigation and Plea Agreement With Epstein

19. In approximately 2005, the FBI and the [REDACTED] Office in the Southern District of Florida learned of Epstein’s repeated sexual abuse of minor girls. They began a criminal investigation into federal offenses related to his crimes. *See* [REDACTED] Correspondence, Exhibit “C”.

20. At all relevant times Edwards has had a good faith basis to believe and did in fact believe that to avoid the Government learning about his abuse of minor girls, Epstein threatened his employees and demanded that they not cooperate with the government. Epstein’s aggressive witness tampering was so severe that the United States [REDACTED] Office prepared negotiated plea agreements containing these charges. For example, in a September 18, 2007, email from AUSA Villafañia to Lefkowitz (attached hereto as Exhibit “H”), she attached the proposed plea agreement describing Epstein’s witness tampering as follows:

"UNITED STATES vs. JEFFREY EPSTEIN PLEA PROFFER"

On August 21, 2007, FBI Special Agents E. Nesbitt Kuyrkendall and Jason Richards traveled to the home of Leslie Groff to serve her with a federal grand jury subpoena with an investigation pending in the Southern District of Florida. Ms. Groff works as the personal assistant of the defendant. Ms. Groff began speaking with the agents and then excused herself to go upstairs to check on her sleeping child. While upstairs, Ms. Groff telephoned the defendant, Jeffrey Epstein, and informed him that the FBI agents were at her home. Mr. Epstein instructed Ms. Groff not to speak with the agents and reprimanded her for allowing them into her home. Mr. Epstein applied pressure to keep Ms. Groff from complying with the grand jury subpoenas that the agents had served upon her. In particular, Mr. Epstein warned Ms. Groff against turning over documents and electronic evidence responsive to the subpoena and pressured her to delay her

appearance before the grand jury in the Southern District of Florida. This conversation occurred when Mr. Epstein was aboard his privately owned civilian aircraft in Miami in the Southern District of Florida. His pilot had filed a flight plan showing the parties were about to return to Teterboro, NJ. After the conversation with Ms. Groff, Mr. Epstein became concerned that the FBI would try to serve his traveling companion, [REDACTED], with a similar grand jury subpoena. In fact, the agents were preparing to serve Ms. [REDACTED] with a target letter when the flight landed in Teterboro. Mr. Epstein then redirected his airplane, making the pilot file a new flight plan to travel to the US Virgin Islands instead of the New York City area, thereby keeping the Special Agents from serving the target letter on [REDACTED]. During the flight, the defendant verbally harassed Ms. [REDACTED], harassing and pressuring her not to cooperate with the grand [REDACTED] investigation, thereby hindering and dissuading her from reporting the commission of a violation of federal law to a law enforcement officer, namely, Special Agents of the FBI. Epstein also threatened and harassed [REDACTED] against cooperating against him as well.

21. Edwards learned that the Palm Beach police department investigation ultimately led to the execution of a search warrant at Epstein's mansion in October 2005. *See* Police Incident Report, Exhibit "A".

22. Edwards learned that at around the same time, the Palm Beach Police Department also began investigating Epstein's sexual abuse of minor girls. They also collected evidence of Epstein's involvement with minor girls and his obsession with training sex slaves, including pulling information from Epstein's trash. Their investigation showed that Epstein ordered from Amazon.com on about September 4, 2005, such books as: SM101: A Realistic Introduction, by Jay Wiseman; SlaveCraft: Roadmaps for Erotic Servitude - Principles, Skills, and Tools, by Guy Baldwin; and Training with [REDACTED] Abernathy: A Workbook for Erotic Slaves and Their Owners, by Christina Abernathy. *See* Receipt for Sex Slave Books (Exhibit "I").

23. The Palm Beach incident reports provided Edwards with the names of numerous witnesses that participated in Epstein's child molestation criminal enterprise and also provided

Edwards with some insight into how far-reaching Epstein's power was and how addicted Epstein was to sex with children. *See* Incident Report, Exhibit "A".

24. The Palm Beach Police Department also collected Epstein's message pads, which provided other names of people that also knew Epstein's scheme to molest children. *See* Message Pads (Exhibit "J") (note: the names of underage females have been redacted to protect the anonymity of the underage sex abuse victims). Those message pads show clear indication that Epstein's staff was frequently working to schedule multiple young girls between the ages of 12 and 16 years old literally every day, often two or three times per day. *Id.*

25. In light of all of the information of numerous crimes committed by Epstein, Edwards learned that the [REDACTED] Office began preparing the filing of federal criminal charges against Epstein. For example, in addition to the witness tampering and money laundering charges the [REDACTED] Office prepared an 82-page prosecution memo and a 53-page indictment of Epstein related to his sexual abuse of children. On September 19, 2007, at 12:14 PM, AUSA Villafaña wrote to Epstein's counsel, Jay Lefkowitz, "Jay - I hate to have to be firm about this, but we need to wrap this up by Monday. I will not [REDACTED] my indictment date when this has dragged on for several weeks already and then, if things fall apart, be left in a less advantageous position than before the negotiations. I have had an 82-page pros memo and 53-page indictment sitting on the shelf since May to engage in these negotiations. There has to be an ending date, and that date is Monday." These and other communications are within the correspondence attached as Composite Exhibit "C."

26. Edwards learned that rather than face the filing of federal felony criminal charges, Epstein (through his attorneys) engaged in plea bargain discussions. As a result of those

discussions, on September 24, 2007, Epstein signed an agreement with the [REDACTED] Office for the Southern District of Florida. Under the agreement, Epstein agreed to plead guilty to an indictment pending against him in the 15th Judicial Circuit in and for Palm Beach County charging him with solicitation of prostitution and procurement of minors for prostitution. Epstein also agreed that he would receive a thirty month sentence, including 18 months of jail time and 12 months of community control. In exchange, the [REDACTED] Office agreed not to pursue any federal charges against Epstein. *See* Non-Prosecution Agreement (Exhibit "K").

27. Part of the Non-Prosecution Agreement that Epstein negotiated was a provision in which the federal government agreed not to prosecute Epstein's co-conspirators. The co-conspirators procured minor females to be molested by Epstein. One of the co-conspirators - [REDACTED] - even participated in the sex acts with minors (including E.W.) and Epstein. *See* Incident Report, Exhibit "A", at 40-42, 49-51; Deposition of [REDACTED], April 13, 2010, (hereinafter "[REDACTED] Depo.") at 11 (Deposition attachment #9).

28. Under the Non-Prosecution Agreement, Epstein was to use his "best efforts" to enter into his guilty pleas by October 26, 2007. However, Edwards learned that Epstein violated his agreement with the [REDACTED] Office to do so and delayed entry of his plea. *See* Letter from [REDACTED] Attorney R. Alexander Acosta to Lilly Ann Sanchez, Dec. 19, 2007 (Exhibit "L").

29. On January 10, 2008 and again on May 30, 2008 E.W. and L.M. received letters from the FBI advising them that "[t]his case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation." Letters attached at Composite Exhibit "M". This document is evidence that the FBI did not notify E.W. and L.M. that a plea agreement had already been reached that would

block federal prosecution of Epstein. Nor did the FBI notify E.W. and L.M. of any of the parts of the plea agreement. Nor did the FBI or other federal authorities confer with E.W. and L.M. about the plea. *See id.*

30. In 2008, Edwards believed in good faith that criminal prosecution of Epstein was extremely important to his clients E.W. and L.M. and that they desired to be consulted by the FBI and/or other representatives of the federal government about the prosecution of Epstein. The letters that they had received around January 10, 2008, suggested that a criminal investigation of Epstein was on-going and that they would be contacted before the federal government reached any final resolution of that investigation. *See id.*

Edwards Agrees to Serve as Legal Counsel for Three Victims of Epstein's Sexual Assaults

31. In about April 2008, Bradley J. Edwards, Esq., was a licensed attorney in Florida, practicing as a sole practitioner. As a former prosecutor, he was well versed in civil cases that involved criminal acts, including sexual assaults. Three of the many girls Epstein had abused – L.M., E.W., and Jane Doe – all requested that Edwards represent them civilly and secure appropriate monetary damages against Epstein for repeated acts of sexual abuse while they were minor girls. Two of the girls (L.M. and E.W.) also requested that Edwards represent them in connection with a concern that the Federal Bureau of Investigation (FBI) and [REDACTED] Office might be arranging a plea bargain for the criminal offenses committed by Epstein without providing them the legal rights to which they were entitled (including the right to be notified of plea discussions and the right to confer with prosecutors about any plea arrangement). *See*

Affidavit of Bradley J. Edwards, Esq. at ¶1 - 2, ¶4 (hereinafter "Edwards Affidavit") (Exhibit "N").

32. On June 13, 2008, attorney Edwards agreed to represent E.W.; on July 2, 2008, attorney Edwards agreed to represent Jane Doe; and, on July 7, 2008, attorney Edwards agreed to represent L.M. in connection with the sexual assaults committed by Epstein and to insure that their rights as victims of crimes were protected in the criminal process on-going against Epstein. Mr. Edwards and his three clients executed written retention agreements. *See id.* at ¶2.

33. In mid June of 2008, Edwards contacted AUSA Villafañá to inform her that he represented Jane Doe #1 and, later, Jane Doe #2. AUSA Villafañá did not advise that a plea agreement had already been negotiated with Epstein's attorneys that would block federal prosecution. To the contrary, AUSA Villafañá mentioned a possible indictment. AUSA Villafañá did indicate that federal investigators had concrete evidence and information that Epstein had sexually molested many underage minor females, including E.W., LM, and Jane Doe. *See id.* at ¶4.

34. Edwards also requested from the [REDACTED] Office the information that they had collected regarding Epstein's sexual abuse of his clients. However, the [REDACTED] Office, declined to provide any such information to Edwards. It similarly declined to provide any such information to the other attorneys who represented victims of Epstein's sexual assaults. At the very least, this includes the items that were confiscated in the search warrant of Epstein's home, including dildos, vibrators, massage table, oils, and additional message pads. *See* Property Receipt (Exhibit "O").

35. On Friday, June 27, 2008, at approximately 4:15 p.m., AUSA Villafaña received a copy of Epstein's proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., Monday, June 30, 2008. AUSA Villafaña called Edwards to provide notice to his clients regarding the hearing. AUSA Villafaña did not tell Attorney Edwards that the guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement. *See* Edwards Affidavit, Exhibit "N", at ¶6.

36. Under the Crime Victims' Rights Act (CVRA), 18 [REDACTED] § 3771, victims of federal crimes – including E.W. and L.M. – are entitled to basic rights during any plea bargaining process; including the right to be treated with fairness, the right to confer with prosecutors regarding any plea, and the right to be heard regarding any plea. The process that was followed leading to the non-prosecution of Epstein violated these rights of E.W. and L.M. *See* Emergency Petn. for [REDACTED] Enforcement of Crime [REDACTED] Rights, No. 9:08-CV-80736-KAM ([REDACTED] Fla. 2008) (Exhibit "P").

37. Because of the violation of the CVRA, on July 7, 2008, Edwards filed an action in the [REDACTED] District Court for the Southern District of Florida, Case No. 9:08-CV-80736, seeking to enforce the rights of E.W. and L.M. That action alleged that the [REDACTED] Office had failed to provide E.W. and L.M. the rights to which they were entitled under the Act, including the right to be notified about a plea agreement and to confer with prosecutors regarding it. *See id.*

38. On July 11, 2008, Edwards took E.W. and L.M. with him to the hearing on the CVRA action. It was only at this hearing that both victims learned for the first time that the plea deal was already done with Epstein and that the criminal case against Epstein had been

effectively terminated by the [REDACTED] office. See Hearing Transcript, July 11, 2008 (Exhibit "Q").

39. Edwards learned that Jane Doe felt so strongly that the plea bargain was inappropriate that she made her own determination to appear on a television program and exercise her First Amendment rights to criticize the unduly lenient plea bargain Epstein received in a criminal case.

40. The CVRA action that Edwards filed was recently administratively closed and Edwards filed a Motion to reopen that proceeding. See No. 9:08-CV-80736 ([REDACTED] Fla.).

Epstein's Entry of Guilty Pleas to Sex Offenses

41. Ultimately, on June 30, 2008, in the Fifteenth Judicial Circuit in Palm Beach County, Florida, defendant Epstein, entered pleas of "guilty" to various Florida state crimes involving the solicitation of minors for prostitution and the procurement of minors for the purposes of prostitution. See Plea Colloquy (Exhibit "R").

42. As a condition of that plea, and in exchange for the Federal Government not prosecuting the Defendant, Epstein additionally entered into an agreement with the Federal Government acknowledging that approximately thirty-four (34) other young girls could receive payments from him under the federal statute providing for compensation to victims of child sexual abuse, 18 [REDACTED] § 2255. As had been agreed months before, the [REDACTED] Office did not prosecute Epstein federally for his sexual abuse of these minor girls. See Addendum to Non-Prosecution Agreement (Exhibit "[REDACTED]") (in redacted form to protect the identities of the minors involved).

43. Because Epstein became a convicted sex offender, he was not to have contact with any of his victims. During the course of his guilty pleas on June 30, 2008, Palm Beach Circuit Court Judge Deborah Dale Pucillo ordered Epstein “not to have any contact, direct or indirect” with any victims. She also expressly stated that her no-contact order applied to “all of the victims.” Similar orders were entered by the federal court handling some of the civil cases against Epstein. The federal court stated that it “finds it necessary to state clearly that Defendant is under this [REDACTED] order not to have direct *or indirect contact* with any plaintiffs” Order, Case No. 9:08-cv-80119 ([REDACTED], Fla. 2008), [DE 238] at 4-5 (emphasis added); *see also* Order, Case No. 9:08-cv-80893, [DE 193] at 2 (emphasis added).

Edwards Files Civil Suits Against Epstein

44. Edwards had a good faith belief that his clients felt angry and betrayed by the criminal system and wished to prosecute and punish Epstein for his crimes against them in whatever avenue remained open to them. On August 12, 2008, at the request of his client Jane Doe, Brad Edwards filed a civil suit against Jeffrey Epstein to recover damages for his sexual assault of Jane Doe. *See* Edwards Affidavit, “N” at ¶7. Included in this complaint was a RICO count that explained how Epstein ran a criminal conspiracy to procure young girls for him to sexually abuse. *See* Complaint, Jane Doe v. Epstein (Exhibit “T”).

45. On September 11, 2008, at the request of his client E.W., Brad Edwards filed a civil suit against Jeffrey Epstein to recover damages for his sexual assault of E.W. *See* Complaint, E.W. v. Epstein (Exhibit “U”).

46. On September 11, 2008, at the request of his client L.M., Brad Edwards filed a civil suit against Jeffrey Epstein to recover damages for his sexual assault of L.M. *See* Complaint, L.M. v. Epstein, (Exhibit "V").

47. Jane [REDACTED] federal complaint indicated that she sought damages of more than \$50,000,000. Listing the amount of damages sought in the complaint was in accord with other civil suits that were filed against Epstein (before any lawsuit filed by Edwards). *See* Complaint, Jane Doe #4 v. Epstein (Exhibit "W") (filed by Herman and Mermelstein, PA).

48. At about the same time as Edwards filed his three lawsuits against Epstein, other civil attorneys were filing similar lawsuits against Epstein. For example, on or about April 14, 2008 another law firm, Herman and Mermelstein, filed the first civil action against Epstein on behalf of one of its seven clients who were molested by Epstein. The complaints that attorney Herman filed on behalf of his seven clients were similar in tenor and tone to the complaint that Edwards filed on behalf of his three clients. *See id.*

49. Over the next year and a half, more than 20 other similar civil actions were filed by various attorneys against Epstein alleging sexual assault of minor girls. These complaints were also similar in tenor and tone to the complaint that Edwards filed on behalf of his clients. These complaints are all public record and have not been attached, but are available in this [REDACTED] files and the files of the [REDACTED] District Court for the Southern District of Florida.

50. In addition to the complaints filed against Epstein in Florida, a female in New York, Ava Cordero, filed a lawsuit against Epstein in New York making similar allegations - that Epstein paid her for a massage then forced her to give him oral sex and molested her in other ways when she was only 16 years old. Cordero was born a male, and in her complaint she

alleges that Epstein told her during the "massage", "I love how young you are. You have a tight butt like a baby". See Jeff Epstein Sued for "Repeated Sexual Assaults" on Teen, New York Post, October 17, 2007, by Dareh Gregorian, link at: http://www.nypost.com/p/news/regional/item_44zIWYLUFH7R1OUtKYGPbP;sessionid=6CA3EBF1BEF68F5DE14BFB2CAA5C37E0. See Article attached hereto as Exhibit "X".

51. [REDACTED] three complaints against Epstein contained less detail about sexual abuse than (as one example) a complaint filed by attorney Robert Josephsberg from the law firm of Podhurst Orseck. See Complaint, Jane Doe 102 v. Epstein (Exhibit "B"). As recounted in detail in this Complaint, Jane Doe 102 was 15 years old when Ghislaine Maxwell discovered her and lured her to Epstein's house. Maxwell and Epstein forced her to have sex with both of them and within weeks Maxwell and Epstein were flying her all over the world. According to the Complaint, Jane Doe 102 was forced to live as one of Epstein's underage sex slaves for years and was forced to have sex with not only Maxwell and Epstein but also other politicians, businessmen, royalty, academicians, etc. She was even made to watch Epstein have sex with three 12-year-old French girls that were sent to him for his birthday by a French citizen that is a friend of Epstein's. Luckily, Jane Doe 102 escaped to Australia to get away from Epstein and [REDACTED] sexual abuse.

52. Edwards learned that in addition to civil suits that were filed in court against Epstein, at around the same time other attorneys engaged in pre-filing settlement discussions with Epstein. Rather than face filed civil suits in these cases, Epstein paid money settlements to more than 15 other women who had sexually abused while they were minors. See articles regarding settlements attached hereto as Composite Exhibit "Y."

Epstein's Obstruction of Normal Discovery and Attacks on His Victims

53. Once Edwards filed his civil complaints for his three clients, he began the normal process of discovery for cases such as these. He sent standard discovery requests to Epstein about his sexual abuse of the minor girls, including requests for admissions, request for production, and interrogatories. *See* Edwards Affidavit, Exhibit "N", at ¶¶11-19 and 25.

Rather than answer any substantive questions about his sexual abuse and his conspiracy for procuring minor girls for him to abuse, Epstein invoked his 5th amendment right against self-incrimination. An example of Epstein's refusal to answer is attached as Composite Exhibit "Z" (original discovery propounded to Epstein and his responses invoking 5th amendment).

54. During the discovery phase of the civil cases filed against Epstein, Epstein's deposition was taken at least five times. During all of those depositions, Epstein refused to answer any substantive questions about his sexual abuse of minor girls. *See, e.g.*, Deposition Attachments 1, 6 and 7.

55. During these depositions, Epstein further attempted to obstruct legitimate questioning by inserting a variety of irrelevant information about his case. As one of innumerable examples, on March 8, 2010, Mr. Horowitz, representing seven victims, Jane [REDACTED] 2-8, asked, "Q: In 2004, did you rub Jane Doe 3's vagina? A: Excuse me. I'd like to answer that question, as I would like to answer mostly every question you've asked me here today; however, upon advice of counsel, I cannot answer that question. They've advised me I must assert my Sixth Amendment, Fifth Amendment and Fourteenth Amendment Rights against self--excuse me, against--under the Constitution. And though your partner, Jeffrey Herman, was disbarred after filing this lawsuit [a statement that was untrue], Mr. Edwards' partner sits in jail for

fabricating cases of a sexual nature fleecing unsuspecting Florida investors and others out of millions of dollars for cases of a sexual nature with--I'd like to answer your questions; however if I--I'm told that if I do so, I risk losing my [REDACTED] representation; therefore I must accept their advice." Epstein deposition, March 8, 2010, at 106 (Deposition attachment #10).

56. When Edwards had the opportunity to take Epstein's deposition, he only asked reasonable questions, all of which related to the merits of the cases against Epstein. All depositions of Epstein in which Mr. Edwards participated on behalf of his clients are attached to this motion. *See* Edwards Affidavit, Exhibit "N" at ¶11 and Deposition attachments #1, 6, 7, 10, 11, 12, and 13. Cf. with Deposition of Epstein taken by an attorney representing BB (one in which Edwards was not participating), <http://www.youtube.com/watch?v=V-dqoEyYXx4>; and <http://www.youtube.com/watch?v=YCNiYItW-r0>

57. [REDACTED] efforts to obtain information about Epstein's organization for procuring young girls was also blocked because Epstein's co-conspirators took the Fifth. Deposition of [REDACTED] [REDACTED], March 24, 2010 (hereinafter "[REDACTED] Depo.") (Deposition attachment #14); Deposition of [REDACTED] [REDACTED], April 13, 2010, (Deposition attachment #9); Deposition of [REDACTED] [REDACTED], March 15, 2010 (hereinafter "[REDACTED] Depo.") (Deposition attachment #15). Each of these co-conspirators invoked their respective rights against self-incrimination as to all relevant questions, and the depositions have been attached.

58. At all relevant times Edwards has had a good faith basis to believe and did in fact believe [REDACTED] [REDACTED] was an employee of Epstein's and had been identified as a defendant in at least one of the complaints against Epstein for her role in bringing girls to Epstein's mansion to be abused. At the deposition, she was represented by Bruce Reinhart. She invoked the Fifth on

all substantive questions regarding her role in arranging for minor girls to come to Epstein's mansion to be sexually abused. Reinhart had previously been an Assistant United States Attorney in the [REDACTED]. [REDACTED] Office for the Southern District of Florida when Epstein was being investigated criminally by [REDACTED] office. Reinhart left the United States [REDACTED] Office and was immediately hired by Epstein to represent Epstein's pilots and certain co-conspirators during the civil cases against Epstein. *See* Edwards Affidavit, Exhibit "N" at ¶11.

59. Edwards also had other lines of legitimate discovery blocked through the efforts of Epstein and others. For example, Edwards learned through deposition that Ghislaine Maxwell was involved in managing Epstein's affairs and companies. *See* deposition of Epstein's house manager Janusz Banziak, February 16, 2010 at page 14, lines 20-23 (Deposition Attachment #16); *See* deposition of Epstein's housekeeper Louella Rabuyo, October 20, 2009, page 9, lines 17-25 (Deposition Attachment #17); *See* deposition of Epstein's pilot Larry Eugene Morrison, October 6, 2009, page 102-103 (Deposition Attachment #18); *See* deposition of Alfredo Rodriguez, August 7, 2009, page 302-306 and 348 (Deposition Attachment #8); *See* also Prince [REDACTED] Friend, Ghislaine Maxwell, Some Underage Girls and A Very Disturbing Story, September 23, 2007 by Wendy Leigh, link at http://www.redicecreations.com/article.php?id=1895OHANNA_SJOBERG. Exhibit "AA".

60. Alfredo Rodriguez testified that Maxwell took photos of girls without the girls' knowledge, kept the images on her computer, knew the names of the underage girls and their respective phone numbers and other underage victims were molested by Epstein and Maxwell together. *See* Deposition of Rodriguez, Deposition attachment # 8 at 64, 169-170 and 236.

61. In reasonable reliance on this and other information, Edwards served Maxwell for deposition in 2009. *See* Deposition Notice attached as Exhibit “BB.” Maxwell was represented by Brett Jaffe of the New York firm of Cohen and Gresser, and Edwards understood that her attorney was paid for (directly or indirectly) by Epstein. She was reluctant to give her deposition, and Edwards tried to work with her attorney to take her deposition on terms that would be acceptable to both sides. The result was the attached confidentiality agreement, under which Maxwell agreed to drop any objections to the deposition, attached hereto as Exhibit “CC.” Maxwell, however, contrived to avoid the deposition. On June 29, 2010, one day before Edwards was to fly to NY to take ██████ deposition, her attorney informed Edwards that ██████ mother was deathly ill and Maxwell was consequently flying to England with no intention of returning to the United States. Despite that assertion, Ghislaine Maxwell was in fact in the country on July 31, 2010, as she attended the wedding of Chelsea Clinton (former President ██████ daughter) and was captured in a photograph taken for OK magazine. Photos from Issue 809 of the publication *See* US Weekly dated August 16, 2010 are attached hereto as Exhibit “DD” and Edwards Affidavit, Exhibit “N” at ¶12.

62. Maxwell is not the only important witness to lie to avoid deposition by Edwards. Upon review of the message pads that were taken from Epstein’s home in the police trash pulls, *see* Exhibit “J” *supra*, many were from Jean Luc Brunel, a French citizen and one of Epstein’s closest pals. He left messages for Epstein. One dated 4/1/05 said, “He has a teacher for you to teach you how to speak Russian. She is 2x8 years old, not blonde. Lessons are free and you can have your 1st today if you call.” *See* Messages taken from Jean Luc Brunel are attached hereto as Exhibit “EE.” In light of these circumstances of the case, this message reasonably suggested to

Edwards that Brunel might have been procuring two eight-year-old girls for Epstein to sexually abuse. According to widely circulated press reports reviewed by Edwards, Brunel is in his sixties and has a reputation throughout the world (and especially in the modeling industry) as a cocaine addict that has for years molested children through modeling agencies while acting as their agent – conduct that has been the subject of critical reports, books, several news articles, and a 60 Minutes documentary on [REDACTED] sexual exploitation of underage models. See <http://bradmillershero.blogspot.com/2010/08/women-are-objects.html>, attached hereto as Exhibit “FF.”

63. Edwards learned that Brunel is also someone that visited Epstein on approximately 67 occasions while Epstein was in jail. See Epstein's jail visitor log attached as Exhibit “[REDACTED]”

64. Edwards learned that Brunel currently runs the modeling agency MC2, a company for which Epstein provides financial support. See Message [REDACTED] attached as Exhibit “J” *supra* and Sworn Statement of MC2 employee Maritza Vasquez, June 15, 2010, “Maritza Vasquez Sworn Statement” attached at Exhibit “HH” at 1-16.

65. Employees of MC2 told Edwards that Epstein’s numerous condos at 301 East 66 Street in New York were used to house young models. Edwards was told that MC2 modeling agency, affiliated with Epstein and Brunel brought underage girls from all over the world, promising them modeling contracts. Epstein and Brunel would then obtain a visa for these girls, then would charge the underage girls rent, presumably to live as underage prostitutes in the condos. See Maritza Vasquez Sworn Statement, Exhibit “HH” at 7-10, 12-15, 29-30, 39-41, 59-60 and 62-67.

66. In view of this information suggesting Brunel could provide significant evidence of Epstein's trafficking in young girls for sexual abuse, Edwards had Brunel served in New York for deposition. See Notice of Deposition of Jean Luc Brunel attached hereto as Exhibit "II." Before the deposition took place, [REDACTED] attorney (Tama Kudman of West Palm Beach) contacted Edwards to delay the deposition date. Eventually Kudman informed Edwards in January 2009 that Brunel had left the country and was back in France with no plans to return. This information was untrue; Brunel was actually staying with Epstein in West Palm Beach. See Banasiak deposition, deposition attachment #16 at 154-160 and 172-175; see also pages from Epstein's probation file evidencing Jean Luc Brunel (JLB) staying at his house during that relevant period of time attached Exhibit "JJ". As a result, Edwards filed a Motion for Contempt, attached hereto as Exhibit "KK" (Because Epstein settled this case, the motion was never ruled upon.)

67. Edwards was also informed that Epstein paid for not only [REDACTED] representation during the civil process but also paid for legal representation for [REDACTED] [REDACTED] (Epstein's executive assistant and procurer of girls for him to abuse), Larry Visoski (Epstein's personal pilot), Dave Rogers (Epstein's personal pilot), Larry Harrison (Epstein's personal pilot), Louella Rabuyo (Epstein's housekeeper), [REDACTED] [REDACTED] (Epstein's live-in sex slave), Ghislaine Maxwell (manager of Epstein's affairs and businesses), Mark Epstein (Epstein's brother), and Janusz Banasiak (Epstein's house manager) It was nearly impossible to take a deposition of someone that would have helpful information that was not represented by an attorney paid for by Epstein. See Edwards Affidavit, Exhibit "N" at ¶11.

68. While Epstein and others were preventing any legitimate discovery into his sexual abuse of minor girls, at the same time he was engaging (through his attorneys) in brutal questioning of the girls who had filed civil suits against him, questioning so savage that it made local headlines. See Jane Musgrave, *Victims Seeking Sex [REDACTED] Millions See Painful Pasts Used Against Them*, Palm Beach Post News, Jan. 23, 2010, available at <http://www.palmbeachpost.com/news/crime/victims-seeking-sex-offenders-millions-see-painful-pasts-192988.html> attached hereto as Exhibit "LL."

Edwards Pursues Other Lines of Discovery

69. Because of Epstein's thwarting of discovery and attacks on [REDACTED] clients, Edwards was forced to pursue other avenues of discovery. Edwards only pursued legitimate discovery designed to further the cases filed against Epstein. See Edwards Affidavit, Exhibit "N" at ¶11.

70. Edwards notified Epstein's attorneys of his intent to take Bill [REDACTED] deposition. Edwards possessed a legitimate basis for doing so: (a) Clinton was friends with Ghislaine Maxwell who was Epstein's longtime companion and helped to run Epstein's companies, kept images of naked underage children on her computer, helped to recruit underage children for Epstein, engaged in lesbian sex with underage females that she procured for Epstein, and photographed underage females in sexually explicit poses and kept child pornography on her computer; (b) it was national news when Clinton traveled with Epstein aboard Epstein's private plane to Africa and the news articles classified Clinton as Epstein's friend. (c) the complaint filed on behalf of Jane Doe No. 102 stated generally that she was required by Epstein to be sexually exploited by not only Epstein but also Epstein's "adult male peers, including royalty,

politicians, academicians, businessmen, and/or other professional and personal acquaintances” – categories Clinton and acquaintances of Clinton fall into. The flight logs showed Clinton traveling on Epstein’s plane on numerous occasions between 2002 and 2005. See Flight logs attached hereto as Exhibit “MM.” Clinton traveled on many of those flights with Ghislaine Maxwell, [REDACTED], and Adriana [REDACTED], - all employees and/or co-conspirators of Epstein’s that were closely connected to Epstein’s child exploitation and sexual abuse. The documents clearly show that Clinton frequently flew with Epstein aboard his plane, then suddenly stopped - raising the suspicion that the friendship abruptly ended, perhaps because of events related to Epstein’s sexual abuse of children. Epstein’s personal phone directory from his computer contains e-mail addresses for Clinton along with 21 phone numbers for him, including those for his assistant (Doug Band), his schedulers, and what appear to be [REDACTED] personal numbers. This information certainly leads one to believe that Clinton might well be a source of relevant information and efforts to obtain discovery from him were reasonably calculated to lead to admissible evidence. See Exhibits “B”, “F” “AA”, “DD”, and “MM” and Edwards Affidavit, Exhibit “N” at ¶15.

71. Bradley J. Edwards, Esq., provided notice that he intended to take the deposition of Donald Trump. Edwards possessed a legitimate basis for doing so: (a) The message pads confiscated from Epstein’s home indicated that Trump called Epstein’s West Palm Beach mansion on several occasions during the time period most relevant to my [REDACTED] clients’ complaints; (b) Trump was quoted in a *Vanity Fair* article about Epstein as saying "I've known Jeff for fifteen years. Terrific guy," "[REDACTED] a lot of fun to be with. It is even said that he likes beautiful women as much as I do, and many of them are on the younger side. No doubt about it --

Jeffrey enjoys his social life." Jeffrey Epstein: International Moneyman of Mystery; [REDACTED] pals with a passel of Nobel Prize-winning scientists, CEOs like Leslie Wexner of the Limited, socialite Ghislaine Maxwell, even Donald Trump. But it wasn't until he flew Bill Clinton, Kevin Spacey, and Chris Tucker to Africa on his private Boeing 727 that the world began to wonder who he is. By Landon Thomas Jr. (See article attached hereto as Exhibit "NN") (c) Trump allegedly banned Epstein from his Maralago Club in West Palm Beach because Epstein sexually assaulted an underage girl at the club; (d) Jane Doe No. 102's complaint alleged that Jane Doe 102 was initially approached at [REDACTED] Maralago by Ghislaine Maxwell and recruited to be Maxwell and Epstein's underage sex slave; (e) Mark Epstein (Jeffrey Epstein's brother) testified that Trump flew on Jeffrey Epstein's plane with him (the same plane that Jane Doe 102 alleged was used to have sex with underage girls); (f) Trump had been to Epstein's home in Palm Beach; (g) Epstein's phone directory from his computer contains 14 phone numbers for Donald Trump, including emergency numbers, car numbers, and numbers to [REDACTED] security guard and houseman. Based on this information, Edwards reasonably believed that Trump might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition. See deposition of Mark Epstein, September 21, 2009, at 48-50 (Deposition Attachment #19); See Jane Doe 102 v. Epstein, Exhibit "B"; Exhibit "F"; "Exhibit"J"; "N" and See Edwards Affidavit, Exhibit "N" at ¶13.

72. Edwards provided notice that he intended to depose Alan Dershowitz. Edwards possessed a legitimate basis for doing so: (a) Dershowitz is believed to have been friends with Epstein for many years; (b) in one news article Dershowitz comments that, "I'm on my 20th book... The only person outside of my immediate family that I send drafts to is Jeffrey" The

Talented Mr. Epstein, By Vicky Ward on January, 2005 in Published Work, Vanity Fair (See article attached as Exhibit "OO"); (c) Epstein's housekeeper Alfredo Rodriguez testified that Dershowitz stayed at Epstein's house during the years when Epstein was assaulting minor females on a daily basis; (d) Rodriguez testified that Dershowitz was at Epstein's house at times when underage females were there being molested by Epstein (see Alfredo Rodriguez deposition at 278-280, 385, 426-427); (e) Dershowitz reportedly assisted in attempting to persuade the Palm Beach State [REDACTED] Office that because the underage females alleged to have been victims of Epstein's abuse lacked credibility and could not be believed that they were at Epstein's house, when Dershowitz himself was an eyewitness to their presence at the house; (f) Jane Doe No. 102 stated generally that Epstein forced her to be sexually exploited by not only Epstein but also Epstein's "adult male peers, including royalty, politicians, academicians, businessmen, and/or other professional and personal acquaintances" – categories that Dershowitz and acquaintances of Dershowitz fall into; (g) during the years 2002-2005 Alan Dershowitz was on Epstein's plane on several occasions according to the flight logs produced by Epstein's pilot and information (described above) suggested that sexual assaults may have taken place on the plane; (h) Epstein donated \$30 Million one year to the university at which Dershowitz teaches. Based on this information, Edwards had a reasonable basis to believe that Dershowitz might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition. See Dershowitz letters to the State [REDACTED] office attached as Exhibit "PP"; Deposition of Alfredo Rodriguez at 278-280; Flight Logs Exhibit "MM"; Exhibits "B" and "OO"; and Edwards Affidavit, Exhibit "N" at ¶14.

73. Epstein's complaint alleges that Edwards provided notice that he wished to take the deposition of Tommy Mattola. That assertion is untrue. Mr. [REDACTED] deposition was set by the law firm of Searcy Denny Scarola Barnhart and Shipley. *See* Edwards Affidavit, Exhibit "N" at ¶16.

74. Edwards gave notice that he intended to take David [REDACTED] deposition. Edwards possessed a legitimate basis for doing so. Epstein's housekeeper and one of the only witnesses who did not appear for deposition with an Epstein bought attorney, Alfredo Rodriguez, testified that David Copperfield was a guest at Epstein's house on several occasions. His name also appears frequently in the message pads confiscated from Epstein's house. It has been publicly reported that Copperfield himself has had allegations of sexual misconduct made against him by women claiming he sexually abused them, and one of Epstein's sexual assault victims also alleged that Copperfield had touched her in an improper sexual way while she was at Epstein's house. Mr. Copperfield likely has relevant information and deposition was reasonably calculated to lead to the discovery of admissible evidence. *See* Edwards Affidavit, Exhibit "N" at ¶17.

75. Epstein also takes issue with Edwards identifying Bill Richardson as a possible witness. Richardson was properly identified as a possible witness because Epstein's personal pilot testified to Richardson joining Epstein at Epstein's New Mexico Ranch. There was information indicating that Epstein had young girls at his ranch which, given the circumstances of the case, raised the reasonable inference he was sexually abusing these girls as he had abused girls in West Palm Beach and elsewhere. Richardson had also returned campaign donations that were given to him by Epstein, indicating that he believed that there was something about Epstein

with which he did not want to be associated. Richardson was not called to testify nor was he ever subpoenaed to testify. *See* Edwards Affidavit, Exhibit “N” at ¶18.

76. Edwards learned of allegations that Epstein engaged in sexual abuse of minors on his private aircraft. *See* Jane Doe 102 Complaint, Exhibit “B.” Accordingly, Edwards pursued discovery to confirm these allegations.

77. Discovery of the pilot and flight logs was proper in the cases brought by Edwards against Epstein. Jane Doe filed a federal RICO claim against Epstein that was an active claim through much of the litigation. The RICO claim alleged that Epstein ran an expansive criminal enterprise that involved and depended upon his plane travel. Although Judge Marra dismissed the RICO claim at some point in the federal litigation, the legal team representing Edwards' clients intended to pursue an appeal of that dismissal. Moreover, all of the subjects mentioned in the RICO claim remained relevant to other aspects of Jane ██████ claims against Epstein, including in particular her claim for punitive damages. *See* Edwards Affidavit, Exhibit “N” at ¶19.

78. Discovery of the pilot and flight logs was also proper in the cases brought by Edwards against Epstein because of the need to obtain evidence of a federal nexus. ██████ client Jane Doe was proceeding to trial on a federal claim under 18 ██████, § 2255. Section 2255 is a federal statute which (unlike relevant state statutes) established a minimum level of recovery for victims of the violation of its provisions. Proceeding under the statute, however, required a “federal nexus” to the sexual assaults. Jane Doe had two grounds on which to argue that such a nexus existed to her abuse by Epstein: first, his use of telephone to arrange for girls to be abused; and, second, his travel on planes in interstate commerce. During the course of the litigation,

Edwards anticipated that Epstein would argue that Jane █████ proof of the federal nexus was inadequate. These fears were realized when Epstein filed a summary judgment motion raising this argument. In response, the other attorneys and Edwards representing Jane Doe used the flight log evidence to respond to Epstein's summary judgment motion, explaining that the flight logs demonstrated that Epstein had traveled in interstate commerce for the purpose of facilitating his sexual assaults. Because Epstein chose to settle the case before trial, Judge Marra did not rule on the summary judgment motion.

79. Edwards had further reason to believe and did in fact believe that the pilot and flight logs might contain relevant evidence for the cases against Epstein. Jane Doe No. 102's complaint outlined Epstein's daily sexual exploitation and abuse of underage minors as young as 12 years old and alleged that Epstein's plane was used to transport underage females to be sexually abused by him and his friends. The flight logs accordingly were a potential source of information about either additional girls who were victims of Epstein's abuse or friends of Epstein who may have witnessed or even participated in the abuse. Based on this information, Edwards reasonably pursued the flight logs in discovery.

80. In the fall of 2009, Epstein gave a recorded interview to George Rush, a reporter with the *New York Daily News* about pending legal proceedings. In that interview, Epstein demonstrated an utter lack of remorse for his crimes (but indirectly admitted his crimes) by stating:

- People do not like it when people make good and that was one reason he (Epstein) was being targeted by civil suits filed by young girls in Florida;
- He (Epstein) had done nothing wrong;

- He (Epstein) had gone to jail in Florida for soliciting prostitution for no reason;
- If the same thing (i.e., sexual abuse of minor girls) had happened in New York, he (Epstein) would have received only a \$200 fine;
- Bradley J. Edwards was the one causing all of Epstein's problems (i.e., the civil suits brought by Jane Doe and other girls);
- L.M. came to him as a prostitute and a drug user (i.e., came to Epstein for sex, rather than Epstein pursuing her);
- All the girls suing him are only trying to get a meal ticket;
- The only thing he might have done wrong was to maybe cross the line a little too closely;
- He (Epstein) was very upset that Edwards had subpoenaed Ghislaine Maxwell, that she was a good person that did nothing wrong (i.e., had done nothing wrong even though she helped procure young girls to satisfy Epstein's sexual desires);
- With regard to Jane Doe 102 v. Epstein, which involved an allegation that Epstein had repeatedly sexually abused a 15-year-old girl, forced her to have sex with his friends, and flew her on his private plane nationally and internationally for the purposes of sexually molesting and abusing her, he (Epstein) flippantly said that the case was dismissed, indicating that the allegations were ridiculous and untrue.

See Affidavit of Michael J. Fisten attached hereto as Exhibit "QQ."

81. The Rush interview also demonstrated perjury (a federal crime) on the part of Epstein. Epstein lied about not knowing George Rush. *See* Epstein Deposition, February 17, 2010, taken in L.M. v. Jeffrey Epstein, case 50-2008-CA-028051, page 154, line 4 through 155 line 9, (Deposition attachment #7), wherein Jeffrey Epstein clearly impresses that he does not recognize George Rush from the New York Daily News. This impression was given despite the fact that he gave a lengthy personal interview about details of the case that was tape recorded with George Rush.

Epstein's Harassment of Witnesses Against Him

82. At all relevant times Edwards has a good faith basis to believe and did in fact believe that Epstein engaged in threatening witnesses. See Incident Report, Exhibit "A" at p. 82, [REDACTED] Correspondence, Exhibit "C" - Indictments drafted by Federal Government against Epstein; and Edwards Affidavit, Exhibit "N" at ¶11.

83. Despite three no contact orders entered against Epstein (*see* Exhibit C, *supra*), Edwards learned that Epstein continued to harass his victims. For example, Jane Doe had a trial set for her civil case against him on July 19, 2010. As that trial date approached, defendant Epstein intimidated her in violation of the judicial no-contact orders. On July 1, 2010, he had a "private investigator" tail Jane Doe – following her every move, stopping when she stopped, driving when she drove, refusing to pass when she pulled over. When Jane Doe ultimately drove to her home, the "private investigator" then parked in his car approximately 25 feet from Jane Doe house and flashed his high beam lights intermittently into the home. Even more threateningly, at about 10:30 p.m., when Jane Doe fled her home in the company of a retired police officer employed by Jane [REDACTED] counsel, the "private investigator" attempted to follow Jane Doe despite a request not to do so. The retired officer successfully took evasive action and placed Jane Doe in a secure, undisclosed location that night. Other harassing actions against Jane Doe also followed. See Motion for Contempt filed by Edwards in Jane Doe v. Epstein detailing the event, including Fisten Affidavit attached to Motion, Composite Exhibit "RR."

Epstein Settlement of Civil Claims Against Him for Sexual Abuse of Children

84. The civil cases Edwards filed against Epstein on behalf of L.M., E.W., and Jane Doe were reasonably perceived by Edwards to be very strong cases. Because Epstein had

sexually assaulted these girls, he had committed several serious torts against them and would be liable to them for appropriate damages. *See* Preceding Undisputed Facts. Because of the outrageousness of Epstein's sexual abuse of minor girls, Edwards reasonably expected that Epstein would also be liable for punitive damages to the girls. Because Edwards could show that Epstein had molested children for years and designed a complex premeditated scheme to procure different minors everyday to satisfy his addiction to sex with minors, the punitive damages would have to be sufficient to deter him from this illegal conduct that he had engaged in daily for years. Epstein was and is a billionaire. *See* Complaint, ¶49 (referring to "Palm Beach Billionaire"); *see also* Epstein Deposition, February 17, 2010, at 172-176 (Deposition Attachment #7) (taking the Fifth when asked whether he is a billionaire). Accordingly, Edwards reasonably believed the punitive damages that would have to be awarded against Epstein would have been substantial enough to punish him severely enough for his past conduct as well as deter him from repeating his offenses in the future. *See* Edwards Affidavit, Exhibit "N" at ¶19.

85. On July 6, 2010, rather than face trial for the civil suits that had been filed against him by L.M., E.W., and Jane Doe, defendant Epstein settled the cases against him. The terms of the settlement are confidential. The settlement amounts are highly probative in the instant action as Epstein bases his claims that Edwards was involved in the Ponzi scheme on Epstein's inability to settle the L.M., E.W., and Jane Doe cases for "minimal value". His continued inability to settle the claims for "minimal value" after the Ponzi scheme was uncovered would be highly probative in discrediting any causal relationship between the Ponzi scheme and ██████████ settlement negotiations. *See* Edwards Affidavit, Exhibit "N" at ¶21.

Edwards Non-Involvement in Fraud by Scott Rothstein

86. From in or about 2005, through in or about November 2009, Scott Rothstein appears to have run a giant Ponzi scheme at his law firm of Rothstein, Rosenfeldt and Adler P.A. (“RRA”). This Ponzi scheme involved Rothstein falsely informing investors that settlement agreements had been reached with putative defendants based upon claims of sexual harassment and/or whistle-blower actions. Rothstein falsely informed the investors that the potential settlement agreements were available for purchase. Plea Agreement at 2, *United States v. Scott W. Rothstein*, No. 9-60331-CR-COHN (██████, Fla. Jan. 27, 2010) attached hereto as Exhibit “SS.”

87. It has been alleged that among other cases that Rothstein used to lure investors into his Ponzi scheme were the cases against Epstein that were being handled by Bradley J. Edwards, Esq. Edwards had no knowledge of the fraud or any such use of the Epstein cases. *See* Edwards Affidavit, Exhibit “N” at ¶9.

88. Bradley J. Edwards, Esq., joined RRA in about April 2009 and left RRA in November 2009 – a period of less than one year. Edwards would not have joined RRA had he been aware that Scott Rothstein was running a giant Ponzi scheme at the firm. Edwards left RRA shortly after learning of ██████████ fraudulent scheme. *Id.* at ¶8.

89. At no time prior to the public disclosure of ██████████ Ponzi scheme did Edwards know or have reason to believe that Rothstein was using legitimate claims that Edwards was prosecuting against Epstein for any fraudulent or otherwise illegitimate purpose. *Id.* at ¶20.

90. Edwards never substantively discussed the merits of any of his three cases against Epstein with Rothstein. *See* Deposition of Bradley J. Edwards taken March 23, 2010, at 110-16. (hereinafter “Edwards Depo”) (Deposition Attachment #22).

91. On July 20, 2010, Bradley Edwards received a letter from the [REDACTED] Office for the Southern District of Florida – the office responsible for prosecuting [REDACTED] Ponzi scheme. The letter indicated that law enforcement agencies had determined that Edwards was “a victim (or potential victim)” of Scott [REDACTED] federal crimes. The letter informed Edwards of his rights as a victim of [REDACTED] fraud and promised to keep Edwards informed about subsequent developments in [REDACTED] prosecution. See Letter attached hereto as Exhibit “TT.”

92. Jeffrey Epstein filed a complaint with the Florida Bar against Bradley Edwards, Esq., raising allegations that Edwards and others were involved in the wrongdoing of Scott Rothstein. After investigating the claim, the Florida Bar dismissed this complaint. See Edwards Affidavit, Exhibit “N” at ¶23.

Epstein Takes the Fifth When Asked Substantive Questions About His Claims Against Edwards

93. On March 17, 2010, defendant Epstein was deposed about his lawsuit against Edwards. Rather than answer substantive questions about his lawsuit, Epstein repeatedly invoked his Fifth Amendment privilege. See Epstein Depo. taken 3/17/10, Deposition Attachment #1.

94. In his deposition, Epstein took the Fifth rather than answer the question: “Specifically what are the allegations against you which you contend Mr. Edwards ginned up?” *Id.* at 34.

95. In his deposition, Epstein took the Fifth rather than name people in California that Edwards had tried to depose to increase the settlement value of the civil suit he was handling. *Id.* at 37.

96. In his deposition, Epstein took the Fifth rather than answer the question: "Do you know former President Clinton personally." *Id.*

97. In his deposition, Epstein took the Fifth rather than answer the question: "Are you now telling us that there were claims against you that were fabricated by Mr. Edwards?" *Id.* at 39.

98. In his deposition, Epstein took the Fifth rather than answer the question, "Well, which of Mr. Edwards' cases do you contend were fabricated." *Id.*

99. In his deposition, Epstein took the Fifth rather than answer the question: "What is the actual value that you contend the claim of E.W. against you has?" *Id.* at 45.

100. In his deposition, Epstein took the Fifth rather than answer a question about the actual value of the claim of L.M. and Jane Doe against him. *Id.*

101. In his deposition, taken prior to the settlement of [REDACTED] clients claims against Epstein, Epstein took the Fifth rather than answer the question: "Is there any pending claim against you which you contend is fabricated?" *Id.* at 71.

102. In his deposition, Epstein took the Fifth rather than answer the question: "Did you ever have damaging evidence in your garbage?" *Id.* at 74.

103. In his deposition, Epstein took the Fifth rather than answer the question: "Did sexual assaults ever take place on a private airplane on which you were a passenger?" *Id.* at 88.

104. In his deposition, Epstein took the Fifth rather than answer the question: "Does a flight log kept for a private jet used by you contain the names of celebrities, dignitaries or international figures?" *Id.* at 89.

105. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever socialized with Donald Trump in the presence of females under the age of 18?" *Id.* at 89.

106. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever socialized with Alan Dershowitz in the presence of females under the age of 18." *Id.* at 90.

107. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever socialized with Mr. Mottola in the presence of females under the age of 18?" *Id.* at 91-92.

108. In his deposition, Epstein took the Fifth rather than answer the question: "Did you ever socialize with David Copperfield in the presence of females under the age of 18?" *Id.* at

109. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever socialized with Mr. Richardson [Governor of New Mexico and formerly ■■■ Representative and Ambassador to the United Nations] in the presence of females under the age of 18." *Id.* at 94.

110. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever sexually abused children?" *Id.* at 95.

111. In his deposition, Epstein took the Fifth rather than answer the question: "Did you have staff members that assisted you in scheduling appointments with underage females; that is, females under the age of 18." *Id.* at 97-98.

112. In his deposition, Epstein took the Fifth rather than answer the question: "On how many occasions did you solicit prostitution." *Id.* at 102.

113. In his deposition, Epstein took the Fifth rather than answer the question: "How many minors have you procured for prostitution?" *Id.* at 104.

114. In his deposition, Epstein took the Fifth rather than answer the question: "Have you ever coerced, induced or enticed any minor to engage in any sexual act with you?" *Id.* at 107.

115. In his deposition, Epstein took the Fifth rather than answer the question: "How many times have you engaged in fondling underage females?" *Id.* at 108.

116. In his deposition, Epstein took the Fifth rather than answer the question: "How many times have you engaged in oral sex with females under the age of 18?" *Id.* at 110.

117. In his deposition, Epstein took the Fifth rather than answer the question: "Do you have a personal sexual preference for children?" *Id.* at 111-12.

118. In his deposition, Epstein took the Fifth rather than answer the question: "Your Complaint at page 27, paragraph 49, says that 'RRA and the litigation team took an emotionally driven set of facts involving alleged innocent, unsuspecting, underage females and a Palm Beach billionaire, and sought to turn it into a goldmine,' end of quote. Who is the Palm Beach billionaire referred to in that sentence?" *Id.* at 112-13.

119. In his deposition, Epstein took the Fifth rather than answer the question: "Who are the people who are authorized to make payment [to your lawyers] on your behalf?" *Id.* at 120.

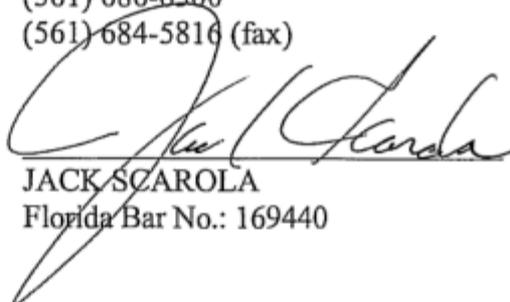
120. In his deposition, Epstein took the Fifth rather than answer the question: "Is there anything in L.M. ■ Complaint that was filed against you in September of 2008 which you contend to be false?" *Id.* at 128.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 4th, 2010 a copy of the foregoing has been served via Fax and [REDACTED] Mail to all those on the attached service list.

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Searcy, Denney, Scarola, Barnhart & Shipley
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By:



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DEFENDANT BRADLEY J. [REDACTED] STATEMENT OF UNDISPUTED FACTS
Epstein v. Edwards, et al.
Case No.: 50 2009 CA 040800XXXXMBAG

EXHIBIT N

AFFIDAVIT OF BRADLEY JAMES EDWARDS

1. I am an attorney in good standing with the Florida Bar and admitted to practice in the Southern District of Florida. I am currently a partner in the law firm of Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.
2. In 2008, I was a sole practitioner running a personal injury law firm in Hollywood, FL. While a sole practitioner I was retained by three clients, L.M., E.W., and Jane Doe to pursue civil litigation against Jeffrey Epstein for sexually abusing them while they were minor girls. I agreed to represent these girls, along with attorney Jay Howell (an attorney in Jacksonville, Florida with Jay Howell & Associates) and Professor Paul Cassell (a law professor at the University of Utah College Of Law). I filed state court actions on behalf of L.M. and E.W. and a federal court action on behalf of Jane Doe. All of the cases were filed in the summer of 2008.
3. My clients received correspondence from the [REDACTED] Department of Justice regarding their rights as victims of Epstein's federal sex offenses. (True and accurate copies of the letters are attached to Statement of Undisputed Facts as Exhibit "M")
4. In mid June 2008, I contacted Assistant United States Attorney Marie Villafañia to inform her that I represented Jane Doe #1(E.W.) and, later, Jane Doe #2(L.M.). I asked to meet to provide information regarding Epstein. AUSA Villafañia did not advise me that a plea agreement had already been negotiated with Epstein's attorneys that would block federal prosecution. AUSA Villafañia did indicate that federal investigators had concrete evidence and information that Epstein had sexually molested at least 40 underage minor females, including E.W., Jane Doe and L.M.
5. I also requested from the [REDACTED] Office the information and evidence that they had collected regarding Epstein's sexual abuse of his clients. However, the [REDACTED] Office declined to provide any such information to me. The [REDACTED] Office also declined to provide any such information to the other attorneys who represented victims of Epstein's sexual assaults.
6. I was informed that on Friday, June 27, 2008, at approximately 4:15 p.m., AUSA Villafañia received a copy of Epstein's proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., Monday, June 30, 2008. She called me to provide notice to my clients regarding the hearing. She did not tell me that the guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement. My clients did not learn and understand this fact until July 11, 2008, when the agreement was described during a hearing held before Judge Marra on the Crime Victims' Rights Act action that I had filed.
7. In the summer of 2008 I filed complaints against Jeffrey Epstein on behalf of L.M., E.W., and Jane Doe.

8. In the Spring of 2009 (approximately April), I joined the law firm of Rothstein, Rosenfeldt and Adler, P.A. ("RRA"). I brought my existing clients with me when I joined RRA, including L.M., E.W., and Jane Doe. When I joined the firm, I was not aware that Scott Rothstein was running a Ponzi scheme at RRA. Had I known such a Ponzi scheme was in place, I would never have joined RRA.
9. I am now aware that it has been alleged that Scott Rothstein made fraudulent presentations to investors about the lawsuits that I had filed on behalf of my clients against Epstein and that it has been alleged that these lawsuits were used to fraudulently lure investors into [REDACTED] Ponzi scheme. I never met a single investor, had no part in any such presentations and had no knowledge any such fraud was occurring. If these allegations are true, I had no knowledge that any such fraudulent presentations were occurring and no knowledge of any such improper use of the case files.
10. Epstein's Complaint against me alleges that Rothstein made false statements about cases filed against Epstein, i.e., that RRA had 50 anonymous females who had filed suit against Epstein; that Rothstein sold an interest in personal injury lawsuits, reached agreements to share attorneys fees with non-lawyers, paid clients "up front" money; and that he used the judicial process to further his Ponzi scheme. If Rothstein did any of these things, I had no knowledge of his actions. Because I maintained close contact with my clients, EW, LM and Jane Doe, and Scott Rothstein never met any of them, I know for certain that none of my clients were paid "up front" money by anyone.
11. Epstein alleges that I attempted to take the depositions of his "high profile friends and acquaintances" for no legitimate litigation purpose. This is untrue, as all of my actions in representing L.M., E.W., and Jane Doe were aimed at providing them effective representation in their civil suits. With regard to Epstein's friends, through documents and information obtained in discovery and other means of investigation, I learned that Epstein was sexually molesting minor girls on a daily basis and had been for many years. I also learned the unsurprising fact that he was molesting the girls in the privacy of his mansion in West Palm Beach, meaning that locating witnesses to corroborate their testimony would be difficult to find. I also learned, from the course of the litigation, that Epstein and his lawyers were constantly attacking the credibility of the girls, that Epstein's employees were all represented by lawyers who apparently were paid for (directly or indirectly) by Epstein, that co-conspirators whose representation was also apparently paid for by Epstein were all taking the Fifth (like Epstein) rather than provide information in discovery. For example, I was given reason to believe that [REDACTED], [REDACTED], Larry Visoski, Larry Harrison, David Rogers, Louella Rabuyo, [REDACTED], [REDACTED], Ghislaine Maxwell, Mark Epstein, and Janusz Banasiak all had lawyers paid for by Epstein. Because Epstein and the co-conspirators in his child molestation criminal enterprise blocked normal discovery avenues, I needed to search for other ordinary approaches to strengthen the cases of my clients. Consistent with my training and experience, these other ordinary approaches included finding other witnesses who could corroborate allegations of sexual abuse of my clients or other girls. Some of these witnesses were friends of Epstein. Given his social status, it also turned out that some of his friends were high-profile individuals.

12. In light of information I received suggesting that British socialite Ghislaine Maxwell, former girlfriend and long-time friend of Epstein's, was involved in managing Epstein's affairs and companies I had her served for deposition for August 17, 2009. (Deposition Notice attached to Statement of Undisputed Facts as Exhibit BB). Maxwell was represented by Brett Jaffe of the New York firm of Cohen and Gresser, and I understood that her attorney was paid for (directly or indirectly) by Epstein. She was reluctant to give her deposition, and I tried to work with her attorney to take her deposition on terms that would be acceptable to both sides. Her attorney and I negotiated a confidentiality agreement, under which Maxwell agreed to drop any objections to the deposition. Maxwell, however, still avoided the deposition. On June 29, 2010, one day before I was to fly to NY to take [REDACTED] deposition, her attorney informed me that [REDACTED] mother was deathly ill and Maxwell was consequently flying to England with no intention of returning and certainly would not return to the United States before the conclusion of Jane [REDACTED] trial period (August 6, 2010). Despite that assertion, I later learned that Ghislaine Maxwell was in fact in the country on approximately July 31, 2010, as she attended the wedding of Chelsea Clinton (former President [REDACTED] daughter) and was captured in a photograph taken for US Weekly magazine.
13. Epstein alleges that there was something improper in the fact that I notified him that I intended to take Donald [REDACTED] deposition in the civil suits against him. Trump was properly noticed because: (a) after review of the message pads confiscated from Epstein's home, the legal and investigative team assisting my clients learned that Trump called Epstein's West Palm Beach mansion on several occasions during the time period most relevant to my clients' complaints; (b) Trump was quoted in a *Vanity Fair* article about Epstein as saying "I've known Jeff for fifteen years. Terrific guy." "[REDACTED] a lot of fun to be with. It is even said that he likes beautiful women as much as I do, and many of them are on the younger side. No doubt about it -- Jeffrey enjoys his social life." Jeffrey Epstein: International Moneyman of Mystery; [REDACTED] pals with a passel of Nobel Prize-winning scientists, CEOs like Leslie Wexner of the Limited, socialite Ghislaine Maxwell, even Donald Trump. But it wasn't until he flew Bill Clinton, Kevin Spacey, and Chris Tucker to Africa on his private Boeing 727 that the world began to wonder who he is. By Landon Thomas Jr.; (c) I learned through a source that Trump banned Epstein from his Maralago Club in West Palm Beach because Epstein sexually assaulted an underage girl at the club; (d) Jane Doe No. 102's complaint alleged that Jane Doe 102 was initially approached at [REDACTED] Maralago by Ghislaine Maxwell and recruited to be Maxwell and Epstein's underage sex slave; (e) Mark Epstein (Jeffrey Epstein's brother) testified that Trump flew on Jeffrey Epstein's plane with him (the same plane that Jane Doe 102 alleged was used to have sex with underage girls) deposition of Mark Epstein, September 21, 2009 at 48-50; (f) Trump visited Epstein at his home in Palm Beach -- the same home where Epstein abused minor girls daily; (g) Epstein's phone directory from his computer contains 14 phone numbers for Donald Trump, including emergency numbers, car numbers, and numbers to [REDACTED] security guard and houseman. Based on this information, I believed that

Trump might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition.

14. Epstein alleges that there was something improper in the fact that I notified him that I intended to take Alan [REDACTED] deposition in the civil suits against him. Dershowitz was properly noticed because: (a) Dershowitz has been friends with Epstein for many years; (b) in one news article Dershowitz comments that, "I'm on my 20th book... The only person outside of my immediate family that I send drafts to is Jeffrey" The Talented Mr. Epstein, By Vicky Ward on January, 2005 in Published Work, Vanity Fair; (c) Epstein's housekeeper Alfredo Rodriguez testified that Dershowitz stayed at Epstein's house during the years most relevant to my clients; (d) Rodriguez testified that Dershowitz was at Epstein's house at times when underage females where there being molested by Epstein (see Alfredo Rodriguez deposition at 278-280, 385, 426-427); (e) Dershowitz was reportedly involved in persuading the Palm Beach State [REDACTED] office not to file felony criminal charges against Epstein because the underage females lacked credibility and thus could not be believed that they were at Epstein's house, despite him being an eyewitness that the underage girls were actually there; (f) Jane Doe No. 102 stated generally that Epstein forced her to be sexually exploited by not only Epstein but also Epstein's "adult male peers, including royalty, politicians, academicians, businessmen, and/or other professional and personal acquaintances" - categories that Dershowitz and acquaintances of Dershowitz fall into; (g) during the years 2002-2005 Alan Dershowitz was on Epstein's plane on several occasions according to the flight logs produced by Epstein's pilot and information (described above) suggested that sexual assaults may have taken place on the plane; (h) Epstein donated Harvard \$30 Million dollars one year, and Harvard was one of the only institutions that did not return Epstein's donation after he was charged with sex offenses against children. Based on this information, I believed that Dershowitz might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition.
15. Epstein alleges that there was something improper in the fact that I notified him that I intended to take Bill [REDACTED] deposition. Clinton was properly noticed because: (a) it was well known that Clinton was friends with Ghislaine Maxwell, and several witnesses had provided information that Maxwell helped to run Epstein's companies, kept images of naked underage children on her computer, helped to recruit underage children for Epstein, engaged in lesbian sex with underage females that she procured for Epstein, and photographed underage females in sexually explicit poses and kept child pornography on her computer; (b) newspaper articles stated that Clinton had an affair with Ghislaine Maxwell, who was thought to be second in charge of Epstein's child molestation ring. The Cleveland Leader newspaper, April 10, 2009; (c) it was national news when Clinton traveled with Epstein (and Maxwell) aboard Epstein's private plane to Africa and the news articles classified Clinton as Epstein's friend; (d) the flight logs for the relevant years 2002 - 2005 showed Clinton traveling on Epstein's plane on more than 10 occasions and his assistant, Doug Band, traveled on many more occasions; (e) Jane Doe No. 102 stated generally that she was required by Epstein to be sexually

exploited by not only Epstein but also Epstein's "adult male peers, including royalty, politicians, academicians, businessmen, and/or other professional and personal acquaintances" – categories Clinton and acquaintances of Clinton fall into; (f) flight logs showed that Clinton took many flights with Epstein, Ghislaine Maxwell, [REDACTED], and Adriana [REDACTED] -- all employees and/or co-conspirators of Epstein's that were closely connected to Epstein's child exploitation and sexual abuse; (g) Clinton frequently flew with Epstein aboard his plane, then suddenly stopped – raising the suspicion that the friendship abruptly ended, perhaps because of events related to Epstein's sexual abuse of children; (h) Epstein's personal phone directory from his computer contains e-mail addresses for Clinton along with 21 phone numbers for him, including those for his assistant (Doug Band), his schedulers, and what appear to be [REDACTED] personal numbers. Based on this information, I believed that Clinton might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition.

16. Epstein alleges that Tommy Mottola was improperly noticed with a deposition. I did not notice Mattola for deposition. He was noticed for deposition by a law firm representing another one of Epstein's victims – not by me.
17. Epstein alleges that there was something improper in the fact that I notified him that I intended to take the illusionist David [REDACTED] deposition. Copperfield was properly noticed because: (a) Epstein's housekeeper Alfredo Rodriguez testified that David Copperfield was a guest on several occasions at Epstein's house; (b) according to the message pads confiscated from Epstein's house, Copperfield called Epstein quite frequently and left messages that indicated they socialized together; (c) Copperfield himself has had similar allegations made against him by women claiming he sexually abused them; (d) one of Epstein's sexual assault victims also alleged that Copperfield had touched her in an improper sexual way while she was at Epstein's house. Based on this information, I believed that Copperfield might have relevant information to provide in the cases against Jeffrey Epstein and accordingly provided notice of a possible deposition.
18. Epstein alleges that there was something improper in the fact that I identified Bill Richardson as a possible witness against him in the civil cases. Richardson was properly identified as a possible witness because Epstein's personal pilot testified to Richardson joining Epstein at Epstein's New Mexico Ranch. See deposition of Larry Morrison, October 6, 2009, at 167-169. There was information indicating that Epstein had young girls at his ranch which, given the circumstances of the case, raised the reasonable inference he was sexually abusing these girls since he had regularly and frequently abused girls in West Palm Beach and elsewhere. Richardson had also returned campaign donations that were given to him by Epstein, indicating that he believed that there was something about Epstein that he did not want to be associated with. Richardson was not called to testify nor was he ever subpoenaed to testify.
19. Epstein alleges that discovery of plane and pilot logs was improper during discovery in the civil cases against him. Discovery of these subjects was clearly proper and

necessary because: (a) Jane Doe filed a federal RICO claim against Epstein that was an active claim through much of the litigation. The RICO claim alleged that Epstein ran an expansive criminal enterprise that involved and depended upon his plane travel. Although Judge Marra dismissed the RICO claim at some point in the federal litigation, the legal team representing my clients intended to pursue an appeal of that dismissal. Moreover, all of the subjects mentioned in the RICO claim remained relevant to other aspects of Jane [REDACTED] claims against Epstein, including in particular her claim for punitive damages; (b) Jane Doe also filed and was proceeding to trial on a federal claim under 18 [REDACTED] § 2255. Section 2255 is a federal statute which (unlike other state statutes) guaranteed a minimum level of recovery for Jane Doe. Proceeding under the statute, however, required a "federal nexus" to the sexual assaults. Jane Doe had two grounds on which to argue that such a nexus existed to her abuse by Epstein: first, his use of the telephone to arrange for girls to be abused; and, second, his travel on planes in interstate commerce. During the course of the litigation, I anticipated that Epstein would argue that Jane [REDACTED] proof of the federal nexus was inadequate. These fears were realized when Epstein filed a summary judgment motion raising this argument. In response, the other attorneys and I representing Jane Doe used the flight log evidence to respond to Epstein's summary judgment motion, explaining that the flight logs demonstrated that Epstein had traveled in interstate commerce for the purpose of facilitating his sexual assaults. Because Epstein chose to settle the case before trial, Judge Marra did not rule on the summary judgment motion. (c) Jane Doe No. 102' complaint outlined Epstein's daily sexual exploitation and abuse of underage minors as young as 12 years old and alleged that he used his plane to transport underage females to be sexually abused by him and his friends. The flight logs accordingly might have information about either additional girls who were victims of Epstein's abuse or friends of Epstein who may have witnessed or even participated in the abuse. Based on this information, I believed that the flight logs and related information was relevant information to prove the cases against Jeffrey Epstein and accordingly I pursued them in discovery.

20. In approximately November 2009, the existence of Scott [REDACTED] Ponzi scheme became public knowledge. It was at that time that I, along with many other reputable attorneys at RRA, first became aware of Rothstein criminal scheme. At that time, I left RRA with several other RRA attorneys to form the law firm of Farmer Jaffe Weissing Edwards Fistos and Lehrman ("Farmer Jaffe"). I was thus with RRA for less than one year.
21. In July 2010, along with other attorneys at Farmer Jaffe and Professor Cassell, I reached favorable settlement terms for my three clients L.M., E.W., and Jane Doe in their lawsuits against Epstein.
22. On July 20, 2010, I received a letter from the [REDACTED] Office for the Southern District of Florida – the office responsible for prosecuting [REDACTED] Ponzi scheme. The letter indicated that law enforcement agencies had determined that I was "a victim (or potential victim)" of Scott [REDACTED] federal crimes. The letter informed me of my rights as a victim of [REDACTED] federal crimes and promised to keep me informed about

subsequent developments in his prosecution. A copy of this letter is attached to this Affidavit. (A copy of the letter is attached to Statement of Undisputed Facts as Exhibit UU)

23. Jeffrey Epstein also filed a complaint with the Florida Bar against me. His complaint alleged that I had been involved in [REDACTED] scheme and had thereby violated various rules of professional responsibility. The Florida Bar investigated and dismissed the complaint.
24. I have reviewed the Statement of Undisputed Facts filed contemporaneously with this Affidavit. Each of the assertions concerning what I learned, what I did, and the good faith beliefs formed by me in the course of my prosecutions of claims against Jeffrey Epstein as contained in the Statement of Undisputed Facts is true, and the foundations set out as support for my beliefs are true and correct to the best of my knowledge.
25. All actions taken by me in the course of my prosecution of claims against Jeffrey Epstein were based upon a good faith belief that they were reasonable, necessary, and ethically proper to fulfill my obligation to zealously represent the interests of my clients.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 9/21, 2010



Bradley J. Edwards, Esq.

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

Case No.: 50 2009CA 040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

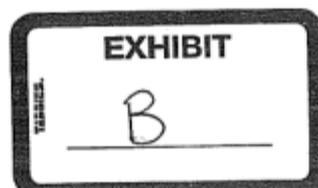
Defendants,

DEFENDANT BRADLEY J. [REDACTED]
RENEWED MOTION FOR FINAL SUMMARY JUDGMENT

Defendant, Bradley J. Edwards, Esq., by and through his undersigned counsel and pursuant to Rule 1.510, Florida Rules of Civil Procedure, hereby moves for Final Summary Judgment and in support thereof states as follows:

I. INTRODUCTION

The pleadings and discovery taken to date show that there is no genuine issue as to any material facts and that Bradley J. Edwards, Esq. is entitled to summary judgment for all claims brought against him in Plaintiff Jeffrey Epstein's Second Amended Complaint. Not only is there an absence of competent evidence to demonstrate that Edwards participated in any fraud against Epstein, the evidence uncontrovertibly demonstrates the propriety of every aspect of Edwards' involvement in the prosecution of legitimate claims against Epstein. Epstein sexually abused three clients of Edwards – L.M., E.W., and Jane Doe – and Edwards properly and successfully



represented them in a civil action against Epstein. Nothing in ██████ capable and competent representation of his clients can serve as the basis for a civil lawsuit against him. Allegations about ██████ participation in or knowledge of the use of the civil actions against Epstein in a “Ponzi Scheme” are not supported by any competent evidence and could never be supported by competent evidence as they are entirely false.

A. Epstein’s Complaint

Epstein’s Second Amended Complaint essentially alleges that Epstein was damaged by Edwards, acting in concert with Scott Rothstein (President of the Rothstein Rosenfeldt Adler law firm (“RRA”) where Edwards worked for a short period of time). Epstein appears to allege that Edwards joined Rothstein in the abusive prosecution of sexual assault cases against Epstein to “pump” the cases to Ponzi scheme investors. As described by Epstein, investor victims were told by Rothstein that three minor girls who were sexually assaulted by Epstein: L.M., E.W., and Jane Doe were to be paid up-front money to prevent those girls from settling their civil cases against Epstein. In Epstein’s view, these child sexual assault cases had “minimal value” (Complaint & 42(h)), and ██████ refusal to force his clients to accept modest settlement offers is claimed to breach some duty that Edwards owed to Epstein. Interestingly, Epstein never states that he actually made any settlement offers.

The supposed “proof” of the ██████ allegations against Edwards includes ██████ alleged contacts with the media, his attempts to obtain discovery from high-profile persons with whom Epstein socialized, and use of “ridiculously inflammatory” language in arguments in court. Remarkably, Epstein has filed such allegations against Edwards despite the fact that Epstein had sexually abused each of ██████ clients and others while they were

minors. Indeed, in discovery Epstein has asserted his Fifth Amendment privilege rather than answer questions about the extent of the sexual abuse of his many victims. Even more remarkably, since filing his suit against Edwards, Epstein has now settled the three cases Edwards handled for an amount that Epstein insisted be kept confidential. Without violating the strict confidentiality terms required by Epstein, the cases did not settle for the “minimal value” that Epstein suggested in his Complaint. Because Epstein relies upon the alleged discrepancy between the “minimal value” Epstein ascribed to the claims and the substantial value Edwards sought to recover for his clients, the settlement amounts Epstein voluntarily agreed to pay while these claims against Edwards were pending will be disclosed to the court in-camera.

B. Summary of the Argument

Bradley J. Edwards, Esq., is entitled to summary judgment on Epstein’s frivolous claim for at least three separate reasons.

First, because Epstein has elected to hide behind the shield of his right against self incrimination to preclude his disclosing any relevant information about the criminal activity at the center of his claims, he is barred from prosecuting this case against Edwards. Under the well-established “sword and shield” doctrine, Epstein cannot seek damages from Edwards while at the same time asserting a Fifth Amendment privilege to block relevant discovery. His case must therefore be dismissed.

Second, all of Edwards’ conduct in the prosecution of valid claims against Epstein is protected by the litigation privilege.

Third, and most fundamentally, Epstein’s lawsuit should be dismissed because it is not only unsupported by but is also directly contradicted by all of the record evidence. From the

beginning, Edwards diligently represented three victims of sexual assaults perpetrated by Epstein. As explained in detail below, each and every one of [REDACTED] litigation decisions was grounded in proper litigation judgment about the need to pursue effective discovery against Epstein, particularly in the face of Epstein's stonewalling tactics. [REDACTED] successful representation finally forced Epstein to settle and pay appropriate damages. Effective and proper representation of child victims who have been repeatedly sexually assaulted cannot form the basis of a separate, "satellite" lawsuit, and therefore Edwards is entitled to summary judgment on these grounds as well.

The truth is the record is entirely devoid of any evidence to support Epstein's claims and is completely and consistently corroborative of [REDACTED] sworn assertion of innocence. Put simply, Epstein has made allegations that have no basis in fact. To the contrary, his lawsuit was merely a desperate measure by a serial pedophile to prevent being held accountable for repeatedly sexually abusing minor females. Epstein's ulterior motives in filing and prosecuting this lawsuit are blatantly obvious. Epstein's behavior is another clear demonstration that he feels he lives above the law and that because of his wealth he can manipulate the system and pay for lawyers to do his dirty work - even to the extent of having them assert baseless claims against other members of the Florida Bar. Epstein's Second Amended Complaint against Edwards is nothing short of a far-fetched fictional fairy-tale with absolutely no evidence whatsoever to support his preposterous claims. It was his last ditch effort to escape the public disclosure by Edwards and his clients of the nature, extent, and sordid details of his life as a serial child molester. [REDACTED] Motion for Summary Judgment should be granted without equivocation.

ARGUMENT

II. EDWARDS IS ENTITLED TO SUMMARY JUDGMENT ON EPSTEIN'S CLAIM BECAUSE THERE ARE NO MATERIAL DISPUTED FACTS AND THE UNDISPUTED FACTS ESTABLISH THAT ██████████ CONDUCT COULD NOT POSSIBLY FORM THE BASIS OF ANY LIABILITY IN FAVOR OF EPSTEIN

A. The Summary Judgment Standard.

Rule 1.510(c), Florida Rules of Civil Procedure, provides that a court may enter summary judgment when the pleadings, depositions and factual showings reveal that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *See Snyder v. Cheezem Development Corp.*, 373 So. 2d 719, 720 (Fla. 2d DCA 1979); Rule 1.510(c), Fla. R. Civ. P. Once the moving party conclusively establishes that the nonmoving party cannot prevail, it is incumbent on the nonmoving party to submit evidence to rebut the motion for summary judgment. *See Holl v. Talcott*, 191 So. 2d 40, 43 (Fla. 1966). It is not enough for the opposing party merely to assert that an issue of fact does exist. *Fisel v. Wynns*, 667 So.2d 761, 764 (Fla.1996); *Landers v. Milton*, 370 So.2d 368, 370 (Fla.1979) (same).

Moreover, it is well-recognized that the non-moving party faced with a summary judgment motion supported by appropriate proof may not rely on bare, conclusory assertions found in the pleadings to create an issue and thus avoid summary judgment. Instead, the party must produce counter-evidence establishing a genuine issue of material fact. *See Bryant v. Shands Teaching Hospital and Clinics, Inc.*, 479 So.2d 165, 168 (Fla. 1st Dist. Ct. App. 1985); *see also Lanzner v. City of North Miami Beach*, 141 So.2d 626 (Fla. 3d Dist Ct. App. 1962) (recognizing that mere contrary allegations of complaint were not sufficient to preclude summary judgment on basis of facts established without dispute). Where the nonmoving party fails to

present evidence rebutting the motion for summary judgment and there is no genuine issue of material fact, then entry of judgment is proper as a matter of law. *See Davis v. Hathaway*, 408 So. 2d 688, 689 (Fla. 2d Dist. Ct. App. 1982); *see also Holl*, 191 So. 2d at 43.

B. Epstein's Claim Regarding Edwards Have Absolutely No Factual Basis.

This is not a complicated case for granting summary judgment. To the contrary, this is a simple case for summary judgment because each and every one of Epstein's claim against Edwards lacks any merit whatsoever.¹

1. **Epstein's allegations regarding Edwards' involvement in ██████████ "Ponzi Scheme" are unsupported and unsupportable because he was simply not involved in any such scheme.**

a. Edwards Had No Involvement in the Ponzi Scheme.

The bulk of Epstein's claims against Edwards hinge on the premise that Edwards was involved in a Ponzi scheme run by Scott Rothstein. Broad allegations of wrongdoing on the part of Edwards are scattered willy-nilly throughout the complaint. None of the allegations provide any substance as to how Edwards actually assisted the Ponzi scheme, and allegations that he "knew or should have known" of its existence are based upon an impermissible pyramiding of inferences. In any event, these allegations all fail for one straightforward reason: Edwards was simply not involved in any Ponzi scheme. He has provided sworn testimony and an affidavit in support of that assertion, and there is not (and could never be) any contrary evidence.

Edwards has now been deposed at length in this case. As his deposition makes crystal clear, he had no knowledge of any fraudulent activity in which Scott Rothstein may have been

¹ A decision by the Court to grant summary judgment on Epstein's claims against Edwards would not affect Epstein's claims against Scott Rothstein. Epstein has already chosen to dismiss all of his claims against L.M., the only other defendant named in the suit.

involved. *See, e.g.*, Edwards Depo. at 301-02 (Q: “. . . [W]ere you aware that Scott Rothstein was trying to market Epstein cases . . . ?” A: “No.”).

Edwards has supplemented his deposition answers with an Affidavit that declares in no uncertain terms his lack of involvement in any fraud perpetrated by Rothstein. *See, e.g.*, Edwards Affidavit attached to Statement of Undisputed Material Facts as Exhibit “N” at ¶8-10, ¶20, ¶22-23. Indeed, no reasonable juror could find that Edwards was involved in the scheme, as Edwards joined RRA well after Rothstein began his fraud and would have been already deeply in debt. In fact, the evidence of Epstein’s crimes is now clear, and ██████████ actions in this case were entirely in keeping with his obligation to provide the highest possible quality of legal representation for his clients to obtain the best result possible.

In view of this clear evidence rebutting all allegations against him, Epstein must now “produce counter-evidence establishing a genuine issue of material fact.” *See Bryant v. Shands Teaching Hospital and Clinics, Inc.*, 479 So.2d 165, 168 (Fla. 1st Dist. Ct. App. 1985). Epstein cannot do this. Indeed, when asked at his deposition whether he had any evidence of ██████████ involvement, Epstein declined to answer, purportedly on attorney-client privilege grounds:

Q. I want to know whether you have any knowledge of evidence that Bradley Edwards personally ever participated in devising a plan through which were sold purported confidential assignments of a structured payout settlement? . . .

A. I’d like to answer that question by saying that the newspapers have reported that his firm was engaged in fraudulent structured settlements in order to fleece unsuspecting Florida investors. With respect to my personal knowledge, I’m unfortunately going to, today, but I look forward to at some point being able to disclose it, today I’m going to have to assert the attorney/client privilege.

See Deposition of Jeffrey Epstein, Mar. 17, 2010 (hereinafter “Epstein Depo.”) at 67-68. Therefore summary judgment should be granted for Edwards on all claims involving any Ponzi scheme by Rothstein.

b. **Epstein's Allegations of Negligence by Edwards are Unfounded and Not Actionable in Any Event.**

In his Second Amended Complaint Epstein recognizes at least the possibility that Edwards was not involved in any Rothstein Ponzi scheme. Therefore, seemingly as a fallback, Epstein alleges without explanation that Edwards "should have known" about the existence of this concealed Ponzi scheme. Among other problems, this fallback negligence position suffers the fatal flaw that it does not link at all to the intentional tort of abuse of process alleged in the complaint.

Epstein's negligence claim is also deficient because it simply fails to satisfy the requirements for a negligence cause of action:

"Four elements are necessary to sustain a negligence claim: 1. A duty, or obligation, recognized by the law, requiring the [defendant] to conform to a certain standard of conduct, for the protection of others against unreasonable risks. 2. A failure on the [REDACTED] part to conform to the standard required: a breach of the duty 3. A reasonably close causal connection between the conduct and the resulting injury. This is what is commonly known as 'legal cause,' or 'proximate cause,' and which includes the notion of cause in fact. 4. Actual loss or damage.

Curd v. Mosaic Fertilizer, LLC, ___ So.2d ___, 2010 WL 2400384 at *9 (Fla. 2010). Epstein does not allege a particular duty on the part of Edwards that has been breached. Nor does Epstein explain how any breach of the duty might have proximately caused him actual damages. Summary judgment is therefore appropriate for these reasons as well.

Finally, for the sake of completeness, it is worth noting briefly that no reasonable jury could find Edwards to have been negligent in failing to anticipate that a managing partner at his law firm would be involved in an unprecedented Ponzi scheme. Scott Rothstein deceived not

only Edwards but also more than 60 other reputable lawyers at a major law firm. *Cf.* *Sun Sentinel*, Fort Lauderdale, Dec. 11, 2009, 2009 WLNR 25074193 at *1 (“Sure, some outlandish John Grisham murder plot[] sound far-fetched. But if you asked me a few months ago if Scott Rothstein was fabricating federal court orders and forging a [] signature on documents to allegedly fleece his friends, as federal prosecutors allege, I would have said that was far-fetched, too.”). No reasonable lawyer could have expected that a fellow member of the bar would have been involved in such a plot. Nobody seemed to know of [] Ponzi scheme, not even his best friends, or the people he did business with on a daily basis, or even his wife. Many of the attorneys at RRA had been there for years and knew nothing. Edwards was a lawyer at RRA for less than 8 months and had very few personal encounters with Rothstein during his time at the firm, yet Epstein claims that he should have known of [] intricate Ponzi scheme. No doubt for this reason the [] Office has now listed Edwards as a “victim” of [] crimes. *See* Statement of Undisputed Facts filed contemporaneously.

Epstein’s Complaint does not offer any specific reason why a jury would conclude that Edwards was negligent, and he chose not to offer any explanation of his claim at his deposition. Accordingly, Edwards is entitled to summary judgment to the extent the claim against him is somehow dependent upon his negligence in failing to discover [] Ponzi scheme.

2. Edwards is Entitled to Summary Judgment to the Extent the Claim Against Him is Dependent on Allegations Regarding “Pumping the Cases” Because He Was Properly Pursuing the Interests of His Three Clients Who Had Been Sexually Abused by Epstein.

Epstein alleges that Edwards somehow improperly enhanced the value of the three civil cases he had filed against Epstein. Edwards represented three young women – L.M., E.W., and Jane Doe – by filing civil suits against Epstein for his sexual abuse of them while they were

minors. Epstein purports to find a cause of action for this by alleging that Edwards somehow was involved in “‘pumping’ these three cases to investors.”

As just explained, to the extent that Epstein is alleging that Edwards somehow did something related to the Ponzi scheme, those allegations fail for the simple reason that Edwards was not involved in any such scheme. Edwards, for example, could not have possibly “‘pumped” the cases to investors when he never participated in any communication with investors.

Epstein’s “‘pumping” claims, however, fail for an even more basic reason: Edwards was entitled – indeed ethically obligated as an attorney – to secure the maximum recovery for his clients during the course of his legal representation. As is well known, “[a]s an advocate, a lawyer zealously asserts the [REDACTED] position under the rules of the adversary system.” Fla. Rules of Prof. Conduct, Preamble. Edwards therefore was required to pursue (unless otherwise instructed by his clients) a maximum recovery against Epstein. Edwards, therefore, cannot be liable for doing something that his ethical duties as an attorney required.²

Another reason that Epstein’s claims that Edwards was “‘pumping” cases for investors fails is that Edwards filed all three cases almost a year before he was hired by RRA or even knew of Scott Rothstein. Epstein makes allegations that the complaints contained sensational allegations for the purposes of luring investors; however, language in the complaints remained virtually unchanged from the first filing in 2008 and from the overwhelming evidence the Court can see for itself that all of the facts alleged by Edwards in the complaints were true.

Epstein ultimately paid to settle all three of the cases Edwards filed against him for more money than he paid to settle any of the other claims against him. At Epstein’s request, the terms

² In a further effort to harass Edwards, Epstein also filed a bar complaint with the Florida Bar against Edwards. The Florida Bar has dismissed that complaint. See Statement of Undisputed Facts.

of the settlement were kept confidential. The sum that he paid to settle all these cases is therefore not filed with this pleading and will be provided to the court for in-camera review. Epstein chose to make this payment as the result of a federal court ordered mediation process, which he himself sought (over the objection of Jane Doe, Edwards' client in federal court) in an effort to resolve the case. See [REDACTED] Motion for Settlement Conference, or in the Alternative, Motion to Direct Parties back to Mediation, *Doe v. Epstein*, No. 9:08-CV-80893 ([REDACTED] Fla. June 28, 2010) (Marra, J.) (doc. #168) attached hereto as Exhibit "A". Notably, Epstein sought this settlement conference – and ultimately made his payments as a result of that conference - in July 2010, more than seven months after he filed this lawsuit against Edwards. Accordingly, Epstein could not have been the victim of any scheme to “pump” the cases against him, because he never paid to settle the cases until well after Edwards had left RRA and had severed all connection with Scott Rothstein (December 2009).

In addition, if Epstein had thought that there was some improper coercion involved in, for example, Jane [REDACTED] case, his remedy was to raise the matter before Federal District Court Judge Kenneth A. Marra who was presiding over the matter. Far from raising any such claim, Epstein simply chose to settle that case. He is therefore now barred by the doctrine of res judicata from somehow re-litigating what happened in (for example) the Jane Doe case. “The doctrine of res judicata makes a judgment on the merits conclusive ‘not only as to every matter which was offered and received to sustain or defeat the claim, but as to every other matter which might with propriety have been litigated and determined in that action.’ *AMEC Civil, LLC v. State Dept. of Transp.*, ___ So.2d ___, 2010 WL 1542634 at *2 (Fla. 1st Dist. Ct. App. 2010) (quoting *Kimbrell v. Paige*, 448 So.2d 1009, 1012 (Fla. 1984). Obviously, any question of improper “pumping” of a

particular case could have been resolved *in that very case* rather than now re-litigated in satellite litigation.

3. Edwards is Entitled to Summary Judgment on the Claim of Abuse of Process Because He Acted Properly Within the Boundaries of the Law in Pursuit of the Legitimate Interests of his Clients.

Epstein's Second Amended Complaint raises several claims of "abuse of process." An abuse of process claim requires proof of three elements: "(1) that the defendant made an illegal, improper, or perverted use of process; (2) that the defendant had ulterior motives or purposes in exercising such illegal, improper, or perverted use of process; and (3) that, as a result of such action on the part of the defendant, the plaintiff suffered damage." ■ *& I Investments v. Payless Flea Market, Inc.*, 36 So.3d 909, 917 (Fla. 4th Dist. Ct. App. 2010) (internal citation omitted). In fact, this Court is very familiar with this cause of action, as Edwards has correctly stated this cause in his counterclaim against Epstein. Edwards is entitled to summary judgment because Epstein cannot prove these elements.

The first element of an abuse of process claim is that a defendant made "an illegal, improper, or perverted use of process." On the surface, Epstein's Complaint appears to contain several allegations of such improper process. On examination, however, each of these allegations amounts to nothing other than a claim that Epstein was unhappy with some discovery proceeding, motion or argument made by Edwards. This is not the stuff of an abuse of process claim, particularly where Epstein fails to allege that he was required to do something as the result of Edwards' pursuit of the claims against him. *See Marty v. Gresh*, 501 So.2d 87, 90 (Fla. 1st Dist. Ct. App. 1987) (affirming summary judgment on an abuse of process claim where "■■■■ lawsuit caused appellee to do nothing against her will").

In any event, none of the allegations of “improper” process can survive summary judgment scrutiny, because every action Edwards took was entirely proper and reasonably calculated to lead to the successful prosecution of the pending claims against Epstein as detailed in Edwards’ Affidavit.

Epstein also fails to meet the second element of an abuse of process claim: that Edwards had some sort of ulterior motive. The case law is clear that on an abuse of process claim a “plaintiff must prove that the process was used for an immediate purpose other than that for which it was designed.” *S&I Investments v. Payless Flea Market, Inc.*, 36 So.3d 909, 917 (Fla. 4th Dist. Ct. App. 2010) (citing *Biondo v. Powers*, 805 So.2d 67, 69 (Fla. 4th Dist. Ct. App. 2002)). As a consequence, “[w]here the process was used to accomplish the result for which it was intended, regardless of an incidental or concurrent motive of spite or ulterior purpose, there is no abuse of process.” *Id.* (internal quotation omitted). Here, Edwards has fully denied any improper motive, *See* Statement of Undisputed Facts, and Epstein has no evidence of any such motivation. Indeed, it is revealing that Epstein chose not to ask even a single question about this subject during the deposition of Edwards. In addition, all of the actions that Epstein complains about were in fact used for the immediate purpose of furthering the lawsuits filed by L.M., E.W., and Jane Doe. In other words, these actions all were both intended to accomplish and, in fact, successfully “accomplished the results for which they were intended” -- whether it was securing additional discovery or presenting a legal issue to the court handling the case or ultimately maximizing the recovery of damages from Epstein on behalf of his victims. Accordingly, Edwards is entitled to summary judgment on any claim that he abused process for this reason as well.

4. Edwards is Entitled to Summary Judgment to the Extent His Claim is Based On Pursuit of Discovery Concerning Epstein's Friends Because All Such Efforts Were Reasonably Calculated to Lead to Relevant and Admissible Testimony About Epstein's Abuse of Minor Girls.

Epstein has also alleged that Edwards improperly pursued discovery from some his close friends. Such discovery, Epstein claims, was improper because Edwards knew that these individuals lacked any discoverable information about the sexual assault cases against Epstein.

Here again, Edwards is entitled to summary judgment, as each of the friends of Epstein were reasonably believed to possess discoverable information. The undisputed facts show the following with regard to each of the persons raised in Epstein's complaint:

- With regard to Donald Trump, Edwards had sound legal basis for believing Mr. Trump had relevant and discoverable information. *See* Statement of Undisputed Facts.
- With regard to Alan Dershowitz (Harvard Law Professor), Edwards had sound legal basis for believing Mr. Dershowitz had relevant and discoverable information. *See* Statement of Undisputed Facts.
- With regard to former President Bill Clinton, Edwards had sound legal basis for believing former President Clinton had relevant and discoverable information. *See* Statement of Undisputed Facts.
- With regard to former Sony Record executive Tommy Mottola, Edwards was not the attorney that noticed Mr. ██████ deposition. *See* Statement of Undisputed Facts.
- With regard to illusionist David Copperfield, Edwards had sound legal basis for believing Mr. Copperfield had relevant and discoverable information. *See* Statement of Undisputed Facts.
- With regard to former New Mexico Governor Bill Richardson, Edwards had sound legal basis for naming Former New Mexico Governor Bill Richardson on his witness list. *See* Statement of Undisputed Facts.

It is worth noting that the standard for discovery is a very liberal one. To notice someone for a deposition, of course, it is not required that the person deposed actually end up producing

admissible evidence. Otherwise, every deposition that turned out to be a false alarm would lead to an “abuse of process” claim. Moreover, the rules of discovery themselves provide that a deposition need only be “reasonably calculated to *lead to* the discovery of admissible evidence.” Fla. R. Civ. P. 1.280(b) (emphasis added).

Moreover, the discovery that Edwards pursued has to be considered against the backdrop of Epstein’s obstructionist tactics. As the Court is aware, in both this case and all other cases filed against him, Epstein has asserted his Fifth Amendment privilege rather than answer any substantive questions. Epstein has also helped secure attorneys for his other household staff who assisted in the process of recruiting the minor girls, who in turn also asserted their Fifth Amendment rights rather than explain what happened behind closed doors in Epstein’s mansion in West Palm Beach. *See* Statement of Undisputed Facts. It is against this backdrop that Edwards followed up on one of the only remaining lines of inquiry open to him: discovery aimed at Epstein’s friends who might have been in a position to corroborate the fact that Epstein was sexually abusing young girls.

In the context of the sexual assault cases that Edwards had filed against Epstein, any act of sexual abuse had undeniable relevance to the case – even acts of abuse Epstein committed against minor girls other than L.M., E.W., or Jane Doe. Both federal and state evidence rules make acts of child abuse against other girls admissible in the plaintiff’s case in chief as proof of “modus operandi” or “motive” or “common scheme or plan.” *See* Fed. R. Evid. 415 (evidence of other acts of sexual abuse automatically admissible in a civil case); Fla. Stat. Ann. 90.404(b) (evidence of common scheme admissible); *Williams v. State*, 110 So.2d 654 (Fla. 1959) (other acts of potential sexual misconduct admissible).

A second reason exists for making discovery of Epstein's acts of abuse of other minor girls admissible. Juries considering punitive damages issues are plainly entitled to consider "the existence and frequency of similar past conduct." *TXO Production Corp. v. Alliance Resources Corp.*, 509 █. 443, 462 n.28 (1993). This is because the Supreme Court recognizes "that a recidivist may be punished more severely than a first offender . . . [because] repeated misconduct is more reprehensible than an individual instance of malfeasance." *BMW of North America, Inc. v. Gore*, 517 █. 559, 577 (1996) (supporting citations omitted). In addition, juries can consider other similar acts evidence as part of the deterrence calculation in awarding punitive damages, because "evidence that a defendant has repeatedly engaged in prohibited conduct while knowing . . . that it was unlawful would provide relevant support for an argument that strong medicine is required to cure the █ disrespect for the law." *Id.* at 576-77. In the cases Edwards filed against Epstein, his clients were entitled to attempt to prove that Epstein "repeatedly engaged in prohibited conduct" – i.e., because he was a predatory pedophile, he sexually assaulted dozens and dozens of minor girls. The discovery of Epstein's friends who might have had direct or circumstantial evidence of other acts of sexual assault was accordingly entirely proper. Edwards is therefore entitled summary judgment to the extent his claim is based on efforts by Edwards to obtain discovery of Epstein's friends.

III. EPSTEIN'S LAWSUIT MUST BE DISMISSED BECAUSE OF HIS REFUSAL TO PARTICIPATE IN REASONABLE DISCOVERY.

As is readily apparent from the facts of this case, Epstein has filed a lawsuit but then refused to allow any real discovery about the merits of his case. Instead, when asked hard questions about whether he has any legitimate claim at all, Epstein has hidden behind the Fifth

Amendment. As a result, under the “sword and shield doctrine” widely recognized in Florida caselaw, his suit must be dismissed.

“[T]he law is well settled that a plaintiff is not entitled to both his silence and his lawsuit.” *Boys & Girls Clubs of Marion County, Inc. v. J.A.*, 22 So.3d 855, 856 (Fla. 5th Dist. Ct. App. 2009) (Griffin, J., concurring specially). Thus, “a person may not seek affirmative relief in a civil action and then invoke the fifth amendment to avoid giving discovery, using the fifth amendment as both a ‘sword and a shield.’” *DePalma v. DePalma*, 538 So.2d 1290, 1290 (Fla. 4th Dist. Ct. App. 1989) (*quoting DeLisi v. Bankers Insurance Co.*, 436 So.2d 1099 (Fla. 4th Dist. Ct. App. 1983)). Put another way, “[a] civil [REDACTED] fifth amendment right to avoid self-incrimination may be used as a shield but not a sword. This means that a plaintiff seeking affirmative relief in a civil action may not invoke the fifth amendment and refuse to comply with the [REDACTED] discovery requests, thereby thwarting the [REDACTED] defenses.” *Rollins Burdick Hunter of New York, Inc. v. Euroclassic Limited, Inc.*, 502 So. 2d 959 (Fla. 3rd Dist. Court App. 1983).

Here, Epstein is trying to do precisely what the “well settled” law forbids. Specifically, he is trying to obtain “affirmative relief” – i.e., forcing Edwards to pay money damages – while simultaneously precluding Edwards from obtaining legitimate discovery at the heart of the allegations that form the basis for the relief Epstein is seeking. As recounted more fully in the statement of undisputed facts, Epstein has refused to answer such basic questions about his lawsuit as:

- “Specifically what are the allegations against you which you contend Mr. Edwards ginned up?”
- “Well, which of Mr. Edwards’ cases do you contend were fabricated?”

- “Is there anything in L.M. █ Complaint that was filed against you in September of 2008 which you contend to be false?”
- “I would like to know whether you ever had any physical contact with the person referred to as Jane Doe in that [federal] complaint?”
- “Did you ever have any physical contact with E.W.?”
- “What is the actual value that you contend the claim of E.W. against you has?”

The matters addressed in these questions are the central focus of Epstein’s claims against Edwards. Epstein’s refusal to answer these and literally every other substantive question put to him in discovery has deprived Edwards of even a basic understanding of the evidence alleged to support claims against him. Moreover, by not offering any explanation of his allegations, Epstein is depriving Edwards of any opportunity to conduct third party discovery and opportunity to challenge Epstein’s allegations.

It is the clear law that “the chief purpose of our discovery rules is to assist the truth-finding function of our justice system and to avoid trial by surprise or ambush,” *Scipio v. State*, 928 So.2d 1138 (Fla.2006), and “full and fair discovery is essential to these important goals,” *McFadden v. State*, 15 So.3d 755, 757 (Fla. 4th Dist. Ct. App. 2009). Accordingly, it is important for the Court to insure “not only compliance with the technical provisions of the discovery rules, but also adherence to the purpose and spirit of those rules in both the criminal and civil context.” *McFadden*, 15 So.3d at 757. Epstein has repeatedly blocked “full and fair discovery,” requiring dismissal of his claim against Edwards.

IV. EDWARDS IS ENTITLED TO ADVERSE INFERENCES FROM EPSTEIN'S INVOCATION OF THE FIFTH AMENDMENT AND THEREFORE TO SUMMARY JUDGMENT ON EPSTEIN'S CLAIM.

Edwards is entitled to summary judgment on the claim against him for a second and entirely independent reason: Epstein's repeated invocations of the Fifth Amendment raise adverse inferences against him that leave no possibility that a reasonable factfinder could reach a verdict in his favor. In ruling on a summary judgment motion, the court must fulfill a "gatekeeping function" and should ask whether "a reasonable trier of fact could possibly" reach a verdict in favor of the plaintiff. *Willingham v. City of Orlando*, 929 So.2d 43, 48 (Fla. 5th Dist. Ct. App. 2006) (emphasis added). Given all of the inferences that are to be drawn against Epstein, no reasonable finder of fact could conclude that Epstein was somehow the victim of improper civil lawsuits filed against him. Instead, a reasonable finder of fact could only find that Epstein was a serial molester of children who was being held accountable through legitimate suits brought by Edwards and others on behalf of the minor girls that Epstein victimized.

"[I]t is well-settled that the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them." *Baxter v. Palmigiano*, 425 ██████████ 308, 318 (1976); accord *Vasquez v. State*, 777 So.2d 1200, 1203 (Fla. App. 2001). The reason for this rule "is both logical and utilitarian. A party may not trample upon the rights of others and then escape the consequences by invoking a constitutional privilege – at least not in a civil setting." *Fraser v. Security and Inv. Corp.*, 615 So.2d 841, 842 (Fla. 4th Dist. Ct. App. 1993). And, in the proper circumstances, "Silence is often evidence of the most persuasive character." *Fraser v. Security and Inv. Corp.*, 615 So.2d

841, 842 (Fla. 4th Dist. Ct. App. 1993) (*quoting United States ex rel. Bilokumsky v. Tod*, 263 149, 153-154 (1923) (Brandeis, J.).

In the circumstances of this case, a reasonable finder of fact would have “evidence of the most persuasive character” from Epstein’s repeated refusal to answer questions propounded to him. To provide but a few examples, here are questions that Epstein refused to answer and the reasonable inference that a reasonable finder of fact would draw:

- Question not answered: “Specifically what are the allegations against you which you contend Mr. Edwards ginned up?” Reasonable inference: No allegations against Epstein were ginned up.
- Question not answered: “Well, which of Mr. Edwards’ cases do you contend were fabricated?” Reasonable inference: No cases filed by Edwards against Epstein were fabricated.
- Question not answered: “Did sexual assaults ever take place on a private airplane on which you were a passenger?” Reasonable inference: Epstein was on a private airplane while sexual assaults were taking place.
- Question not answered: “How many minors have you procured for prostitution?” Reasonable inference: Epstein has procured multiple minors for prostitution.
- Question not answered: “Is there anything in L.M.’s Complaint that was filed against you in September of 2008 which you contend to be false?” Reasonable inference: Nothing in L.M.’s complaint filed in September of 2008 was false – i.e., as alleged in L.M.’s complaint, Epstein repeatedly sexually assaulted her while she was a minor and she was entitled to substantial compensatory and punitive damages as a result.
- Question not answered: “I would like to know whether you ever had any physical contact with the person referred to as Jane Doe in that [federal] complaint?” Reasonable inference: Epstein had physical contact with minor Jane Doe as alleged in her federal complaint.
- Question not answered: “Did you ever have any physical contact with E.W.?” Reasonable inference: Epstein had physical contact with minor E.W. as alleged in her complaint.
- Question not answered: “What is the actual value that you contend the claim of

E.W. against you has?" Reasonable inference: E.W.'s claim against Epstein had substantial actual value.

Without repeating each and every invocation of the Fifth Amendment that Epstein has made and the reasonable inferences to be drawn from those invocations of privilege, the big picture is unmistakably clear: No reasonable finder of fact could rule in Epstein's favor on his claims against Edwards. Accordingly, Edwards is entitled to summary judgment based on the Fifth Amendment inferences that the jury would draw.

The inferences against Epstein are not limited to those arising from his privilege assertions. Epstein's guilt is also reasonably inferred from his harassment of, intimidation of, efforts to exercise control over, and limitation of access to witnesses who might testify against him.

Epstein's efforts to intimidate his victims support the inference that Epstein knew that they were going to provide compelling testimony against him. The evidence that Epstein tampered with witnesses (later designated as his accomplices and co-conspirators) will be admissible to demonstrate his consciousness of guilt. "[I]t is precisely because of the egregious nature of such conduct that the law expressly permits the jury to make adverse inferences from a [redacted] efforts to intimidate witnesses" *Jost v. Ahmad*, 730 So.2d 708, 711 (Fla. 2nd Dist. Ct. App. 1998) (internal quotation omitted). To be clear, Epstein's attempt to tamper with witnesses is "not simply admissible as impeachment evidence of the tampering [redacted] credibility. The opposing party is entitled to introduce facts regarding efforts to intimidate a witness as *substantive evidence*." *Id.* at 711 (emphasis in original) (internal citation omitted). This substantive evidence of Epstein's witness intimidation provides yet another reason why no reasonable jury could find in favor of his claims against Edwards.

V. EDWARDS IS ENTITLED TO SUMMARY JUDGMENT ON THE BASIS OF HIS AFFIRMATIVE DEFENSE OF PRIVILEGE

Absolute immunity must be afforded any act occurring during course of judicial proceeding, regardless of whether act involves defamatory statement or other tortious behavior, such as tortious interference with business relationship, so long as act has some relationship to proceeding. *See Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. [REDACTED]. Fire Ins. Co.*, 639 So. 2d 606 (Fla. 1994). The immunity afforded to statements made during the course of a judicial proceeding extends not only to the parties in a proceeding but to judges, witnesses, and counsel as well. *Id.* The litigation privilege applies in all causes of action, whether for common-law torts or statutory violations. *See Echevarria, McCalla, Raymer, Barrett & Frappier v. Cole*, 950 So. 2d 380 (Fla. 2007). Defamatory statements made by lawyer while interviewing a witness in preparation for and connected to pending litigation are covered by the absolute immunity conferred by the litigation privilege. *See DelMonico v. Traynor*, 50 So. 3d 4 (Fla. Dist. Ct. App. 4th Dist. 2010), review granted, 47 So. 3d 1287 (Fla. 2010). The privilege extends to statements in judicial proceedings or those “necessarily preliminary thereto. *See Stewart v. Sun Sentinel Co.*, 695 So.2d 360 (Fla. 4th DCA 1997)(an [REDACTED] delivery of a copy of a notice of claim to a reporter, which notice was a required filing prior to instituting suit, was protected by absolute immunity).

CONCLUSION

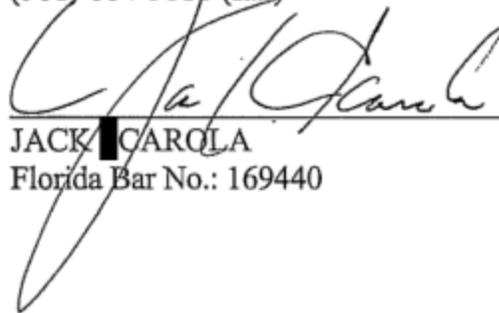
For all the foregoing reasons, defendant, the Court should grant defendant Bradley J. Edwards, Esq., summary judgment in his favor on the only remaining claim filed against him by plaintiff Jeffrey Epstein, and any other relief that the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 3rd, 2011 a copy of the foregoing has been served via Fax and [REDACTED]. Mail to all those on the attached service list.

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff(1),

vs.

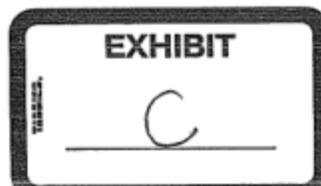
SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually, and
L.M., individually,

Defendant(1).

**COUNTER-PLAINTIFF, EDWARDS' SECOND RENEWED MOTION FOR LEAVE TO
ASSERT CLAIM FOR PUNITIVE DAMAGES**

Counter-plaintiff, BRADLEY J. EDWARDS, moves this Honorable Court for entry of an Order granting him leave to assert a claim for punitive damages against the Counter-defendant, JEFFREY EPSTEIN, and in support thereof would show that the evidence summarized herein satisfies the statutory prerequisites for the assertion of a punitive damage claim. Specifically, the evidence establishes that EPSTEIN's Complaint against EDWARDS;

1. was filed in the total absence of evidence to support any allegation of wrongdoing on the part of EDWARDS;
2. was filed in the total absence of evidence that EPSTEIN had sustained damage as a consequence of any misconduct other than his own well-established criminal enterprise;
3. was filed in the absence of any intention to meet his own obligation to provide relevant and material discovery;



4. was filed for the sole purpose of attempting to intimidate both EDWARDS and EDWARDS' clients and others into abandoning their legitimate claims against EPSTEIN.

APPLICABLE LAW

To plead a claim for punitive damages, the claimant must show a "reasonable basis" for the recovery of such damages. See Fla.R.Civ.P. 1.190(f); see also *Globe Newspaper Co. v. King*, 658 So.2d 518, 520 (Fla. 1995). The showing required to amend is minimal. As stated in *State of Wis. Inv. v. Plantation Square Assoc.*, 761 F. Supp. 1569, 1580 (██████, Fla. 1991):

[T]he court believes it must ultimately be a lesser standard than that required for summary judgment. Though the burden is on [the plaintiff] to survive a §768.72 challenge of insufficiency, see *Will v. Systems Engineering Consultants*, 554 So.2d 591, 592 (Fla. 3rd DCA 1989), the standard of proof required to assert ██████████ punitive claim must be lower than that needed to survive a summary adjudication on its merits. As the Florida courts have noted, a §768.72 challenge more closely resembles a motion to dismiss that additionally requires an evidentiary proffer and places the burden of persuasion on the plaintiff. *Id.* In considering a motion to dismiss, factual adjudication is inappropriate as all facts asserted—or here, reasonably established—by the plaintiff are to be taken as true. *Conley v. Gibson*, 355 ████████. 41, at 45-46, 78 ████████. Ct. 99, at 101-102, 2 L.Ed. 2d 80, 1581 at 84. As such, the court has given recognition only to those assertions of the defendants which would show Plaintiff's factual bases to be patently false or irrelevant, and has paid no heed whatsoever to the defendants' alternative evidentiary proffers.

State of Wis. Inv., 761 F. Supp. At 1580; see also *Dolphin Cove Assn. v. Square D. Co.*, 616 So. 2d 553 (Fla. 2d DCA 1993) ("Prejudging the evidence is not a proper vehicle for the ██████████ denial of the motion to amend" to assert punitive damages claim).

Section 768.72 provides for the amendment of a complaint either through evidence in the record *or* “proffered by the claimant.” As the statute suggests, a proffer of evidence in support of a punitive damage claim is sufficient and a formal evidentiary hearing is not required. *See Strasser v. Yalmanchi*, 677 So.2d 22, 23 (Fla. 4th DCA 1996), *rev. dismissed*, 699 So.2d 1372 (Fla. 1997); *Solis v. Calvo*, 689 So.2d 366, 369, n.2 (Fla. 3d DCA 1997). In fact, a hearing is not even required provided the trial court identifies the filings of the parties and indicates that its decision to grant the motion is based upon a review of the file and the respective documents filed.

The United States District Court for the Middle District of Florida has spoken clearly on the nature of a proffer in support of a motion to amend to assert a claim for punitive damages in *Royal Marco Point I Condo. Ass'n, Inc. v. QBE Ins. Corp.*, 2010 WL 2609367 (M.D. Fla. June 30, 2010). As the Court stated:

It is important to emphasize, at the outset, the limited nature of the review a court may undertake in considering the sufficiency of an evidentiary proffer under Fla. Stat. §768.72. Courts reviewing such proffers have recognized that “a ‘proffer’ according to traditional notions of the term, connotes merely an ‘offer’ of evidence and neither the term standing alone nor the statute itself calls for an adjudication of the underlying veracity of that which is submitted, much less for countervailing evidentiary submissions.” *Estate of Despain v. Avante Group, Inc.*, 900 So.2d 637, 642 (Fla. 5th DCA 2005) (quoting *State of Wisconsin Investment Board v. Plantation Square Associates, Ltd.*, 761 F. Supp. 1569, 1581 n. 21 (█. Fla. 1991)).

Therefore, “an evidentiary hearing where witnesses testify and evidence is offered and scrutinized under the pertinent evidentiary rules, as in a trial, is neither contemplated nor mandated by the statute in order to determine whether a reasonable basis has been established to plead punitive damages.” *Id.* (collecting cases).

It is thus neither necessary nor appropriate for a court to make evidentiary rulings, weigh rebuttal evidence, or engage in credibility determinations in considering the sufficiency of the proffer.

“...a proffer should be evaluated by standards akin to those governing a motion to dismiss, where the truth of the [REDACTED] allegations are assumed, and not the more rigorous summary judgment standard, where the opposing party must show that there is sufficient admissible evidence in the record to support a reasonable jury finding in his favor.”

I. INTRODUCTION

The pleadings and discovery taken to date as confirmed by Epstein's voluntary dismissal of all claims brought by him against Bradley J. Edwards, show that there is an absence of competent evidence to demonstrate that Edwards participated in any fraud against Epstein, show the propriety of every aspect of Edwards' involvement in the prosecution of legitimate claims against Epstein, and further support the conclusion that Epstein sued Edwards out of malice and for the purpose of intending to intimidate Edwards and Edwards' clients into abandoning or compromising their legitimate claims against Epstein. Epstein sexually abused three clients of Edwards – L.M., E.W., and Jane Doe – and Edwards properly and successfully represented them in a civil action against Epstein. Nothing in [REDACTED] capable and competent representation of his clients could serve as the basis for a civil lawsuit against him. Allegations about [REDACTED] participation in or knowledge of the use of the civil actions against Epstein in a “Ponzi Scheme” were never supported by probable cause or any competent evidence and could never be supported by competent evidence as they are entirely false.

A. Epstein's Complaint

Epstein's Second Amended Complaint essentially alleged that Epstein was damaged by Edwards, acting in concert with Scott Rothstein (President of the Rothstein Rosenfeldt Adler law firm ("RRA") where Edwards worked for a short period of time). Epstein appeared to allege that Edwards joined Rothstein in the abusive prosecution of sexual assault cases against Epstein to "pump" the cases to Ponzi scheme investors. As described by Epstein, investor victims were told by Rothstein that three minor girls who were sexually assaulted by Epstein: L.M., E.W., and Jane Doe were to be paid up-front money to prevent those girls from settling their civil cases against Epstein. In Epstein's view, these child sexual assault cases had "minimal value" (Complaint & 42(h)), and ██████████ refusal to force his clients to accept modest settlement offers was claimed to breach some duty that Edwards owed to Epstein. Interestingly, Epstein never states that he actually made any settlement offers.

The supposed "proof" of the ██████████ allegations against Edwards includes ██████████ alleged contacts with the media, his attempts to obtain discovery from high-profile persons with whom Epstein socialized, and use of "ridiculously inflammatory" language in arguments in court. Remarkably, Epstein has filed such allegations against Edwards despite the fact that Epstein had sexually abused each of ██████████ clients and others while they were minors. Indeed, in discovery Epstein has asserted his Fifth Amendment privilege rather than answer questions about the extent of the sexual abuse of his many victims. Even more remarkably, since filing his suit against Edwards, Epstein settled the three cases Edwards handled for an amount that Epstein insisted be kept confidential. Without violating the strict

confidentiality terms required by Epstein, the cases did not settle for the “minimal value” that Epstein suggested in his Complaint. Because Epstein relies upon the alleged discrepancy between the “minimal value” Epstein ascribed to the claims and the substantial value Edwards sought to recover for his clients, the settlement amounts Epstein voluntarily agreed to pay while these claims against Edwards were pending will be disclosed to the court in-camera.

B. Summary of the Argument

The claims against Bradley J. Edwards, Esq., were frivolous for at least three separate reasons.

First, because Epstein elected to hide behind the shield of his right against self-incrimination to preclude his disclosing any relevant information about the criminal activity at the center of his claims, he was barred from prosecuting his case against Edwards. Under the well-established “sword and shield” doctrine, Epstein could not legitimately seek damages from Edwards while at the same time asserting a Fifth Amendment privilege to block relevant discovery. His case was therefore subject to summary judgment and on the eve of the hearing seeking that summary judgment Epstein effectively conceded that fact by voluntarily dismissing his claims.

Second, all of Edwards’ conduct in the prosecution of valid claims against Epstein was protected by the litigation privilege, a second absolute legal bar to Epstein’s claims effectively conceded by his voluntary dismissal.

Third, and most fundamentally, Epstein’s lawsuit was not only unsupported by both the applicable law, it was based on unsupported factual allegations directly contradicted by all of the

record evidence. From the beginning, Edwards diligently represented three victims of sexual assaults perpetrated by Epstein. As explained in detail below, each and every one of [REDACTED] litigation decisions was grounded in proper litigation judgment about the need to pursue effective discovery against Epstein, particularly in the face of Epstein's stonewalling tactics. [REDACTED] successful representation finally forced Epstein to settle and pay appropriate damages. Effective and proper representation of child victims who have been repeatedly sexually assaulted cannot form the basis of a separate, "satellite" lawsuit, and therefore Edwards is entitled to summary judgment on these grounds as well.

The truth is the record is entirely devoid of any evidence to support Epstein's claims and is completely and consistently corroborative of [REDACTED] sworn assertion of innocence. Put simply, Epstein made allegations that have no basis in fact. To the contrary, his lawsuit was merely a desperate measure by a serial pedophile to prevent being held accountable for repeatedly sexually abusing minor females. Epstein's ulterior motives in filing and prosecuting this lawsuit are blatantly obvious. Epstein's behavior is another clear demonstration that he feels he lives above the law and that because of his wealth he can manipulate the system and pay for lawyers to do his dirty work - even to the extent of having them assert baseless claims against other members of the Florida Bar. Every one of Epstein's Complaints against Edwards was nothing short of a far-fetched fictional fairy-tale with absolutely no evidence whatsoever to support his preposterous claims. It was his last ditch effort to escape the public disclosure by Edwards and his clients of the nature, extent, and sordid details of Epstein's life as a serial child molester.

ARGUMENT

II. THE RECORD AND PROFFERED EVIDENCE ESTABLISHES THAT [REDACTED] CONDUCT COULD NOT POSSIBLY FORM THE BASIS OF ANY LIABILITY IN FAVOR OF EPSTEIN

A. The Summary Judgment Standard.

Rule 1.510(c), Florida Rules of Civil Procedure, provides that a court may enter summary judgment when the pleadings, depositions and factual showings reveal that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. See *Snyder v. Cheezem Development Corp.*, 373 So. 2d 719, 720 (Fla. 2d DCA 1979); Rule 1.510(c), Fla. R. Civ. P. Once the moving party conclusively establishes that the nonmoving party cannot prevail, it is incumbent on the nonmoving party to submit evidence to rebut the motion for summary judgment. See *Holl v. Talcott*, 191 So. 2d 40, 43 (Fla. 1966). It is not enough for the opposing party merely to assert that an issue of fact does exist. *Fisel v. Wynns*, 667 So.2d 761, 764 (Fla.1996); *Landers v. Milton*, 370 So.2d 368, 370 (Fla.1979) (same).

Moreover, it is well-recognized that the non-moving party faced with a summary judgment motion supported by appropriate proof may not rely on bare, conclusory assertions found in the pleadings to create an issue and thus avoid summary judgment. Instead, the party must produce counter-evidence establishing a genuine issue of material fact. See *Bryant v. Shands Teaching Hospital and Clinics, Inc.*, 479 So.2d 165, 168 (Fla. 1st Dist. Ct. App. 1985); see also *Lanzner v. City of North Miami Beach*, 141 So.2d 626 (Fla. 3d Dist Ct. App. 1962) (recognizing that mere contrary allegations of complaint were not sufficient to preclude summary

judgment on basis of facts established without dispute). Where the nonmoving party fails to present evidence rebutting the motion for summary judgment and there is no genuine issue of material fact, then entry of judgment is proper as a matter of law. *See Davis v. Hathaway*, 408 So. 2d 688, 689 (Fla. 2d Dist. Ct. App. 1982); *see also Holl*, 191 So. 2d at 43. Faced with these well-established legal principles, Epstein voluntarily dismissed his claims against Edwards on the eve of the hearing on Edwards Motion for Summary Judgment.

B. Epstein's Claim Regarding Edwards Had Absolutely No Factual Basis.

This was not a complicated case for granting summary judgment. To the contrary, the uncontested record clearly established that each and every one of Epstein's claims against Edwards lacked any merit whatsoever.¹

1. **Epstein's allegations regarding Edwards' involvement in ██████████ "Ponzi Scheme" were unsupported and unsupportable because Edwards was simply not involved in any such scheme.**

a. Edwards Had No Involvement in the Ponzi Scheme.

The bulk of Epstein's claims against Edwards hinged on the premise that Edwards was involved in a Ponzi scheme run by Scott Rothstein. Broad allegations of wrongdoing on the part of Edwards were scattered willy-nilly throughout the complaint. None of the allegations provided any substance as to how Edwards actually assisted the Ponzi scheme, and allegations that he "knew or should have known" of its existence are based upon an impermissible pyramiding of inferences. In any event, these allegations all fail for one straightforward reason:

¹ The dismissal of Epstein's claims against Edwards did not affect Epstein's claims against Scott Rothstein. Epstein had already chosen to dismiss all of his claims against L.M., the only other defendant named in the suit.