

#291874/mep

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

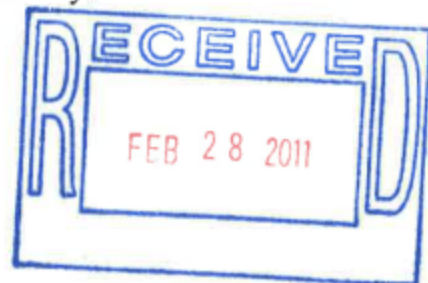
SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually, and
[REDACTED], individually,

Defendant(s).

**MOTION FOR PROTECTIVE ORDER, OBJECTIONS TO CANCELLED
NOTICE OF DEPOSITION DUCES TECUM OF RECORDS CUSTODIAN OF
TRUSTEE HERBERT STETTIN [JANUARY 20, 2011, AND MOTION FOR
APPOINTMENT OF ROBERT CARNEY AS SPECIAL MASTER**

Defendant/Counter-Claimant Bradley J. Edwards, through counsel, files this Motion for Protective Order, Objections to Plaintiff's Notice of Deposition Duces Tecum of Records Custodian of Trustee Herbert Stettin, and Motion for Appointment of Robert Carney as Special Master and states the following:

1. Plaintiff Jeffrey Epstein has directed two discovery requests to the Trustee. This motion is directed at the second discovery request.
2. Epstein claims that he served his second Trustee discovery request, a Notice of Deposition Duces Tecum of Records Custodian of RRA Bankruptcy Trustee Herbert Stettin ("Trustee Depo Notice"), scheduled for January 20, 2011. The deposition was cancelled upon an agreement reached between counsel for Epstein and the Trustee respectively.



3. Plaintiff failed to serve the Trustee Depo Notice on Defendant/Counter-Claimant Bradley J. Edwards. Furthermore, the scheduling or canceling of the subject deposition was not coordinated with or communicated to Defendant's counsel.

4. On February 16, 2011 at 10:20 a.m., Trustee's counsel Charles Lichtman sent an email to Plaintiff's counsel, Defendant's counsel and Special Master Robert Carney stating that the Trustee would produce 10,214 pages of email exchanged between RRA attorneys and government officials and law enforcement officers, pursuant to the cancelled Trustee Depo Notice. This was the first notice that Defendant's counsel received of the existence of the Trustee Depo Notice and the fact that Plaintiff is seeking additional discovery from the Trustee. To date, Defendant's counsel has not received a copy of the putative Trustee Depo Notice.

5. Epstein requested thousands of emails from the trustee in his first Trustee discovery request. Pursuant to this first request, the Trustee turned over more than 27,000 pages of email to the Defendant that the Trustee identified as being responsive to Epstein's request.

6. Edwards and his counsel reviewed all of the email that was turned over. The document review clearly demonstrates that the vast majority of email was absolutely irrelevant to any action Epstein is purportedly pursuing.

7. Edwards previously filed objections directed to the first discovery request and requested that this Court stay enforcement of the subpoena that resulted in the large volume of irrelevant and otherwise protected emails being dumped on Edwards for review and this Court elected not to intervene since the emails had already been produced but made clear that discovery rulings would be made by this Court for this case.

8. Plaintiff's discovery requests have necessitated that Mr. Edwards, his counsel and their staff expend hundreds of hours reviewing documents which are the supposed subject of his request.

9. The parties previously agreed to the appointment of Robert Carney as a special master before the U.S. Bankruptcy Court to address the issues that arose in connection with the first discovery request.

10. The parties have agreed to the appointment of Robert Carney as a special master by this Honorable Court.

OBJECTIONS

Edwards objects to the second discovery request - the Trustee Depo Notice - based on the grounds that the review and production of 10,214 pages of email is burdensome and the request is overly broad and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Edwards further objects on the grounds that the requested emails are also protected by the work product doctrine and/or attorney client communication privileges.

Epstein has absolutely no proof, nor any reasonable basis to allege, that Edwards was in any way involved in Scott Rothstein's Ponzi scheme, yet he continues wage the instant litigation. This incredibly voluminous fishing expedition discovery is clearly intended to harass, annoy, and oppress Mr. Edwards, since it is not capable of returning any relevant discovery or things that are reasonably calculated to lead to the discovery of admissible evidence.

MEMORANDUM OF LAW

Plaintiff's Trustee Depo Notice exceeds the permissible scope of discovery. Defendant has filed objections to the Trustee Depo Notice, contending that the subject requests are not discoverable because they exceed the scope. The Court must rule on the objections and the scope of discovery before Defendant has any duty to file a privilege log. Gosman v. Luzinski, 937 So.2d 293, 296 (4th DCA 2006).

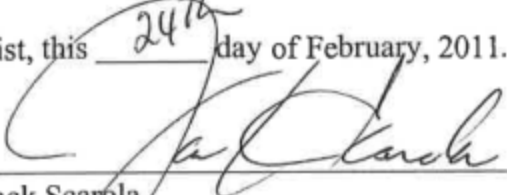
"A party is required to file a log only if the information is 'otherwise discoverable.'" Gosman at 296 (referring to Florida Rule of Civil Procedure 1.280(b)(5)). Before a written objection to a discovery request is ruled upon, the documents are not "otherwise discoverable". Gosman at 296. Edwards has objected and claimed that reviewing and producing the 10,214 pages of requested email is burdensome and harassing. In addition, Edwards has objected to this discovery on the grounds that it seeks documents that are irrelevant and not calculated to lead to the discovery of admissible evidence. Therefore, the scope of the discovery is at issue. Until the court rules on the request, Defendant does not know what will fall into the category of discoverable documents. See Gosman at 296.

Defendant/Counter-claimant respectfully requests that the Court appoint Robert Carney as a special master to make a report to the Court concerning all objections raised to the second discovery request. Moreover, Edwards seeks an order directing Mr. Carney to conduct any in-camera review of the 10,214 email and to hold any hearings that he deems necessary to prepare a report addressing the asserted objections.

WHEREFORE, Defendant/Counter-Claimant respectfully requests that the Court grant the following relief:

- a. Grant this motion for protective order and enjoin the production of any email, documents, or things from Trustee Stettin to Plaintiff in connection with the Trustee Depo Notice;
- b. Sustain Defendant/Counter-Claimant's Objections to discovery and prohibit any discovery from being made, responsive to the Trustee Depo Notice, on this basis;
- c. Appoint Robert Carney as a Special Master to issue a report to the Court on all contested discovery issues;
- d. And to grant such other and further relief as may be deemed just.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Fax and U.S. Mail to all Counsel on the attached list, this 24th day of February, 2011.



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From: Charles H. Lichtman [REDACTED]
Sent: Wednesday, February 16, 2011 10:20 AM
To: Lilly Ann Sanchez; Robert Carney; Gary Farmer; Seth Lehrman
Cc: [REDACTED]
Subject: MORE DOCUMENTS re Epstein

As you know, Mr. Epstein's counsel served upon the Trustee a refined email search which sought documents reflecting communications between RRA lawyers and state and /or governmental officials, largely, if not all, law enforcement officers. I now have a disc of documents for each of you responsive to the subpoena, bate stamped w pages 1 through 10214. I have not reviewed the disc at all, and based upon the search terms, I highly doubt there is anything that could qualify as privileged since the search terms by definition included solely third party communications. Nevertheless, in an abundance of caution, we will review our standard protective order just to make sure the estate is protected. Assuming that to be the case, I intend to then forward to each of you a copy of the disc.

B I O



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