

Christopher E. Knight


March 15, 2011

VIA FACSIMILE  AND FIRST CLASS MAIL

Jack Scarola, Esq.
Searcy, Denney, Scarola, Barnhart
& Shipley, P.A.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Re: Epstein v. Rothstein, et al
Our File No.: 80743

Dear Mr. Scarola,

It has come to our attention that you have recently made numerous extrajudicial comments to the media/press. In a March 11, 2011 article in the British publication "The Telegraph" (copy attached), you are quoted as making the following statements:

1. "We would be very keen to speak with Prince Andrew, given his relationship with Jeffrey Epstein."
2. "We want to obtain additional details on the scope of Mr. Epstein's alleged sexual abuse of children — when, where, how frequently and the extent to which it involved the transport of children inside and outside the United States for sex."
3. "We have reason to believe that Prince Andrew has been in the company of Mr. Epstein while Mr. Epstein has been in the company of under-aged children."

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On March 13, 2011, two days later, "The Observer" reported (copy attached): "Edwards' lawyer, Jack Scarola, said last week that his team intended to try and get a statement from the prince [Andrew] about what he may or may not have seen while attending parties with Epstein."

Given the pendency of the Epstein v. Edwards litigation, we hereby request that you, Mr. Edwards and your agents and employees **immediately cease** releasing extrajudicial information in any form to any agent or employee of the news media. In other words, we seek to curb the extrajudicial comments you are making, as counsel for Mr. Edwards, to the media with regard to Mr. Epstein's alleged sexual abuse of or being with minor females which have any bearing on the pending lawsuits. The extra-judicial statements you have made to the media pose a substantial and imminent threat to a fair trial in Epstein v. Edwards.

In Florida, a court may take steps to protect against pretrial publicity. *See Sheppard v. Maxwell*, 384 U.S. 333, 348 (1966); Sentinel Communications Co. v. Watson, 615 So. 2d 768, 769 (Fla. 5th DCA 1993). The limitations imposed by the court on communications between the media and lawyers and/or litigants are permissible for good cause shown in order to assure a fair trial. *See State ex. rel. Miami Herald Publishing Co. v. McIntosh*, 340 So. 2d 904, 910 (Fla. 1976); *see also Florida Freedom Newspapers, Inc. v. McCrary*, 520 So. 2d 32, 35 (Fla. 1988). The Florida Supreme Court in McIntosh recognized that restrictions on extrajudicial comment are within the power of the trial judge when it said:

Limitation placed on lawyers, litigants and officials directly affected by court proceedings may be made at the court's discretion.... Muzzling lawyers who may wish to make public statements ... has long been recognized as within the court's inherent power to control professional conduct.

State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So. 2d at 910. Thereafter, the Supreme Court in McCrary stated: "Prohibition on comment is an acceptable alternative to prior restraint." Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d at 35-36 (order prohibiting public comment on evidence and charges against two defendants by members of state attorney's office and sheriff's

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was proper preventive measure where prejudicial publicity threatened to impair the right to a fair trial).

Any communications by you and Mr. Edwards, as attorneys, with the media are also limited by the requirements of Rule 4-3.6 of the Rules Regulating The Florida Bar. Rule 4-3.6., entitled "Trial Publicity," states:

(a) Prejudicial Extrajudicial Statements Prohibited. A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation of an imminent and substantial detrimental effect on that proceeding.

(b) Statements of Third Parties. A lawyer shall not counsel or assist another person to make such a statement. Counsel shall exercise reasonable care to prevent investigators, employees, or other persons assisting in or associated with a case from making extrajudicial statements that are prohibited under this rule."

Rule 4-3.6 incorporates the "substantial likelihood of material prejudice" standard that the United States Supreme Court found to be a "constitutionally permissible balance between the First Amendment rights of attorneys in pending cases and the state's interest in fair trials." Gentile v. State Bar of Nevada, 501 U.S. 1030, 1075, 111 S. Ct. 2720, 2745, 115 L.Ed.2d 888 (1991).

Unless we reach a written agreement guaranteeing that you, Mr. Edwards, and your respective agents and employees will not engage in any extrajudicial commentary concerning Mr. Epstein's alleged sexual abuse of or being with minor females, we will seek a protective order from Judge Crow. The requested protective order will direct all parties and their counsel, and their respective agents and employees, not to participate, encourage, assist, or abet in the dissemination of

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any out-of-court publicity in this matter concerning Mr. Epstein's alleged sexual abuse of or being with minor females, consistent with 4.3-6 of the Rules Regulating the Florida Bar.

We trust that you will agree to a swift and amicable resolution of this issue. Otherwise, we will seek judicial intervention and ask Judge Crow to issue a Protective Order.

Very truly yours,

Christopher E. Knight