

F

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

CASE NO.: 2009 CA 040800 XXXXMB
HONORABLE JUDGE DAVID F. CROW

JEFFREY EPSTEIN,

Plaintiff,

vs.

SCOTT ROTHSTEIN, BRADLEY
J. EDWARDS, and LM,

Defendants.

_____ /

DEFENDANT SCOTT ROTHSTEIN'S MOTION TO SET ASIDE DEFAULT

Defendant, SCOTT ROTHSTEIN ("Rothstein" or "Defendant"), by and through undersigned counsel and pursuant to Fla. R. Civ. P. 1.540, hereby moves to set aside the Clerk's Default entered against Defendant, and alleges and asserts as follows:

1. On or about December 7, 2009, Plaintiff filed this lawsuit against Rothstein.
2. Pursuant to the court docket, on or about December 14, 2009, Plaintiff caused the summons and Complaint to be served upon Rothstein.
3. Defendant has been housed at the Federal Detention Center, Miami, since December 1, 2009.
4. Defendant has been pulled out of his cell many times by Bureau of Prisons staff since his incarceration to receive service of lawsuits at all hours.
5. To the best of Defendant's knowledge and belief, he does not recall being served with this lawsuit. If he was, in fact, properly served with this lawsuit it has been misplaced

cc: EDC
oe: JE, DI
JG

within the pile of numerous lawsuits and voluminous amount of other legal papers and has not been located.

6. In addition, undersigned counsel was not aware that service had been made or attempted upon Defendant. Although Defendant is not able to hand any documents to counsel at the Federal Detention Center pursuant to Bureau of Prison rules and regulations, had the undersigned had knowledge of this lawsuit, counsel would have contacted Plaintiff's counsel to obtain a copy of same as has been done with various other suits currently pending against the Defendant.

7. Defendant and undersigned counsel only recently learned about the lawsuit and immediately checked all Court dockets in the tri-county area in an attempt to locate where the lawsuit was pending and the status thereof.

8. It was only at that time, through the on-line Clerk Connect docket system that counsel learned that a Motion for Default was filed on or about December 31, 2009 and a Default was entered on or about January 21, 2010. Again, to the best of Defendant's knowledge, he was not served with a copy of the Motion for Default and to date, has not seen a copy of the Motion, nor has undersigned counsel.

9. The Defendant would be extremely prejudiced if the court were to disallow the Defendant's Motion to Set Aside Default and respectfully requests this Court set aside any default based on excusable neglect.

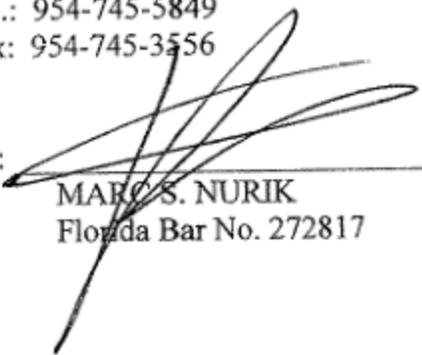
10. The Defendant has a viable defense to the allegations contained in the Plaintiff's Complaint.

WHEREFORE, Defendant, Scott Rothstein, respectfully requests that this Court enter an Order granting Defendant's Motion to Set Aside Default and setting aside the Default.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to:
Robert D. Critton, Jr., Esq., Burman Critton Luttier & Coleman, 303 Banyan Boulevard, Suite
400, West Palm Beach, FL 33401, this 17th day of February, 2010.

LAW OFFICES OF MARC S. NURIK
Counsel to Scott Rothstein
One East Broward Boulevard, Suite 700
Fort Lauderdale, FL 33301
Tel.: 954-745-5849
Fax: 954-745-3556

By: 

MARC S. NURIK
Florida Bar No. 272817