

JEFFREY EPSTEIN,

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

CASE NO.: 502009CA040800XXXXMBAG

JUDGE: CROW

Plaintiff,

vs.

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

Defendants.

PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MEMORANDUM
OF LAW IN OPPOSITION TO DEFENDANT/COUNTER-PLAINTIFF
BRADLEY EDWARDS'S MOTION FOR A PROTECTIVE ORDER

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel, hereby files his Memorandum of Law in Opposition to Defendant/Counter-Plaintiff Bradley Edwards's ("Edwards") legally and factually deficient Motion for Protective Order. In support thereof, Epstein states:

INTRODUCTION

On or about January 9, 2013, Edwards filed his Fourth Amended Counterclaim against Epstein, asserting therein that he suffered the following damages: "a) injury to his reputation; b) mental anguish, embarrassment, and anxiety; c) fear of 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 responsibilities; e) the cost of defending against Epstein's [allegedly] spurious and baseless claims." Edwards likewise claims an entitlement to punitive damages. *See Edwards's Fourth Amended Counterclaim.*

On April 23, 2013 Epstein, in defending this action, served upon Edwards an Amended Notice of Taking Deposition *Duces Tecum*. Attached thereto was a "Schedule A," delineating specific and narrowly-tailored requests for copies of items directly related to Edwards's allegations of damages in his Fourth Amended Counterclaim. A true and correct copy of the Amended Notice and "Schedule A" are attached hereto as "Exhibit A."

On April 25, 2013, Edwards served upon Epstein a one-sentence, factually and legally deficient Motion for Protective Order, alleging in its totality that the production requested by Epstein is "overly broad, irrelevant, immaterial, not reasonably calculated to lead to the discovery of admissible evidence, and is unnecessarily intrusive into the financial privacy of BRADLEY EDWARDS." *See Edwards's Motion for Protective Order*, attached hereto as "Exhibit B." Edwards's Motion, therefore, not only fails to comport with the rudimentary requisites delineated in Rule 1.280(c) of the *Florida Rules of Civil Procedure*, but also blatantly disregards the threshold standard to assert entitlement to his requested relief. Accordingly, and as demonstrated more fully below, denial of Edwards's Motion for Protective Order is mandated.

MEMORANDUM OF LAW

Rule 1.280(c) of the *Florida Rules of Civil Procedure* affords the Court discretion to grant protective orders "**for good cause shown**" and "**to protect a party from annoyance embarrassment, oppression, or undue burden or expense** that justice

requires.” FLA. R.CIV. P. 1.280(c) (2012) (emphasis added); *Orlando Sports Stadium, Inc. v. Sentinel Star Company*, 316 So. 2d 607, 610 (Fla. 4th DCA 1975); *Gross v. Security Trust Company*, 453 So. 2d 944, 945 (Fla. 4th DCA 1984). The moving party, therefore, bears the burden of showing the requisite “good cause,” as well as the alleged “annoyance, embarrassment, oppression, or undue burden.” *See Sabol v. Bennett*, 672 So.2d 93 (Fla. 3d DCA 1996).

Here, Edwards fails to present *any* good cause in his Motion for Protective Order, and wholly disregards the requirement that he properly establish the alleged annoyance, embarrassment, oppression, or undue burden. Edwards asserts impermissible one-word, conclusory **objections** in support of his claim for a protective order; to wit: “overly broad, irrelevant, immaterial, not reasonably calculated to lead to the discovery of admissible evidence.” *See Exhibit B*. These legal conclusions, which are actually objections plead without *any* factual basis, are not grounds for a protective order, as they fail in their entirety to establish annoyance, embarrassment, oppression, or undue burden. Likewise, it is well-established law that “blanket” objections, such as “relevance,” “overbroad,” and “not likely to lead to the discovery of admissible evidence” are legally impermissible. *See Christie v. Hixson*, 358 So. 2d 859 (Fla. 4th DCA 1978). Discovery responses containing bare-boned objections, without more, are stricken as a matter of course. *Id.* As such, as discussed in more detail below, they cannot form the basis for good cause for a protective order.

First, with respect to Edwards’s allegation that the Schedule A requests are “overbroad,” the law is clear that a party may not assert such an allegation absent a showing—by properly asserting—that the volume of documents, hours required to

compile same, or some other quantitative factor makes the request overbroad. Such an **objection** must be supported by “record evidence, such as an affidavit detailing the basis for claiming that the onus of supplying the information or documents is inordinate.” *Topp Telecom, Inc. v. Atkins*, 763 So. 2d 1197, 1199 (Fla. 4th DCA 2000). *See also Allstate Ins. Co. v. Boecher*, 733 So. 2d 993, 994 (Fla.1999) (noting the lack of “affidavits, depositions or other sworn testimony in the record to support Allstate's claims.”). Here, Edwards fails to do so, and further fails to explain how these allegedly overbroad requests are intended to annoy, embarrass, oppress, or unduly burden him, requiring that his Motion be denied.

Next, Edwards’s assertion in support of his Motion for a Protective Order that the requested information is “irrelevant, immaterial, not reasonably calculated to lead to the discovery of admissible evidence” is equally deficient, as “[t]he concept of relevancy is broader in the discovery context than in trial context; a party may be permitted to discover relevant evidence that would be inadmissible at trial, if it may lead to the discovery of relevant evidence.” *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 93 (Fla. 1995). *See also Murray Van & Storage, Inc. v. Murray*, 343 So. 2d 61 (Fla. 4th DCA 1977) (stating that an objection to discovery claiming that the sought-after information is not reasonably calculated to lead to discovery of admissible evidence is a legally insufficient reason to prevent discovery). The party alleging the irrelevance bears the burden of establishing same. However, “[t]he purpose of modern discovery is to disclose items that may lead to evidence on the issues **as framed by the pleadings.**” *Caribbean Sec. Systems, Inc. v. Security Control Systems, Inc.*, 486 So. 2d 654, 656 (Fla. 3d DCA 1986) (emphasis added). Rule 1.280 of the *Florida Rules of Civil Procedure*

memorializes this broad scope, and provides that

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

FLA. R.CIV. P 1.280(1). As such, so long as the discovery requested is relevant to the cause of action as to **any claim or defense**, and is not otherwise subject to a privilege, it is discoverable. Here, it is Edwards's own pleadings that make each and every requested item relevant; it is he who put purported losses to his income, his reputation, and his time spent on other cases at issue. Furthermore, he specifically claims damages for his mental anguish, embarrassment, and anxiety, and as such Epstein is entitled- indeed required- to examine all alleged damages incurred as a result thereof. Accordingly, Edwards's one-sentence assertion, which is wholly devoid of either good cause or any law in support thereof, fails to satisfy the heightened requisite showing for an order of protection, mandating denial of Edwards's Motion.

Third, Edwards asserts that a protective order is warranted because the production requested "is unnecessarily intrusive into the financial privacy of BRADLEY EDWARDS¹." See *Exhibit B*. However, because Edwards has put his financial status at issue by his assertion of damages, his Motion must be denied. When a party voluntarily puts his personal *and business* financial information at issue, courts will compel production of personal financial information. *Friedman v. Heart Institute of Port St. Lucie, Inc.*, 863 So.2d 189, 194 (Fla. 2003). A party's finances, if relevant to the

¹ He does not, however, assert any privilege regarding this request as grounds for his Protective Order.

disputed issues of the underlying action, are not excepted from discovery, and courts will compel production of personal financial documents and information if shown to be relevant by the requesting party. *Florida Gaming Corp. of Delaware v. American Jai-Alai, Inc.*, 673 So. 2d 523, 524 (Fla. 4th DCA 1996) (holding that the financial information at issue was relevant to the calculation of damages under the cause of action and as such financial discovery was proper). In the case at hand, it is irrefutable that Edwards's financial information is relevant; in fact, it was he who put it at issue in his claims for damages; to wit: injury to his reputation; mental anguish, embarrassment, and anxiety; the loss of the value of his time required to be diverted from his professional responsibilities; and the cost of defending against Epstein's claims. The damages allegedly suffered by Edwards are not only a contested issue in this case but also a requisite element to each of his causes of action; actions which he brought and in which he claimed these damages. Accordingly, because Edwards put his financials, at issue, Edwards's Motion must be denied. *Medel v. Republic Nat. Bank of Miami*, 388 So. 2d 327 (Fla. 3d DCA 1980) (holding that trial court abused its discretion by its denial of plaintiff's motion to compel production of detailed financial data); *Charlton v. Tennant*, 365 So. 2d 418 (Fla. 2d DCA 1978).

CONCLUSION

Based on the arguments presented above and the authorities cited in support thereof, Plaintiff/Counter-Defendant Jeffrey Epstein respectfully requests that this Court Deny Defendant/Counter-Plaintiff Bradley Edwards's Request for a Protective Order, and grant such other and further relief as deemed necessary and proper.

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WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this April 28, 2013.

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