

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

CASE NO. 502008CA037319XXXMB AB

B.B.,

Plaintiff,

v.

JEFFREY EPSTEIN,

and [REDACTED]

Defendants.

**EPSTEIN'S OBJECTIONS TO NOTICES OF PRODUCTION FROM
NON-PARTY DIRECTED TO GREENS PHARMACY AND LEWIS PHARMACY**

Defendant, JEFFREY EPSTEIN ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.351, Florida Rules of Civil Procedure, objects to the August 18, 2009 Notices of Production from Non-Parties served by Plaintiff, B.B. ("BB"), and states:

1. On August 18, 2009, BB served Notices of Production from Non-Parties and attached subpoenas directed to Greens Pharmacy and Lewis Pharmacy (attached as **Exhibits A & B**, respectively).

2. The subpoenas to Lewis Pharmacy and Greens Pharmacy provide:

YOU ARE TO PRODUCE A TRUE AND CORRECT COPY OF ANY AND ALL COMPUTER PRINTOUTS OF ANY AND ALL PRESCRIPTIONS FOR MEDICATION, NAME AND TYPE OF PRESCRIPTION, AND ALL OTHER DOCUMENTATION OR INFORMATION REGARDING: JEFFREY EPSTEIN, DATE OF BIRTH: 1/20/53

See Exhibits A & B.

3. Epstein objects to the foregoing subpoenas on the following grounds:

- a. Overly broad as the subpoenas fail to specify a time period;
- b. Not relevant, material or reasonably calculated to lead to the discovery of admissible evidence;
- c. Violation of HIPAA;
- d. Harassing; and
- e. Violation of constitutional right to privacy. See Fla. Const. Art. I §23.

4. Neither Epstein's physical or mental health is an issue in this case. It is not raised or implicated in any of BB's claims or Epstein's defenses thereto. Moreover, Epstein is not seeking any affirmative relief in this action. Thus, there is no conceivable relevance for information regarding prescription medication, if any, taken by Epstein. This is merely a fishing expedition and an improper attempt to intrude into Epstein's personal life.

5. The Court should prohibit such discovery and sustain Epstein's objections to Lewis Pharmacy and Greens Pharmacy regarding Epstein's medications and prescriptions. See e.g. Weinstock v. Groth, 659 So. 2d 713 (Fla. 5th DCA 1995) (holding that because defendant did not place her mental condition at issue, discovery of psychological history was improper); Swift v. Swift, 617 So. 2d 834 (Fla. 4th DCA 1993) (holding that trial court departed from essential requirements of law in denying protective order to prevent wife's questioning of husband's psychiatrist regarding extramarital relationships where husband's mental condition was not at issue); Palm Beach County School Bd. v. Morrison, 621 So. 2d 464 (Fla. 4th DCA 1993) (holding that

defendant's assertion in sexual harassment case that his actions were reasonable and taken in good faith did not make defendant's health mental health history an issue in the suit).

6. The subpoenas are also harassing. Again, information regarding prescription medication, if any, taken by Epstein is wholly irrelevant to this action as his health is not at issue.

7. Article I, Section 23 of the Florida Constitution provides in pertinent part "[e]very natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein." Florida courts have consistently held that the right of privacy applies to a person's medical information. See Fla. Dept. of Corrections v. Abril, 969 So. 2d 201, 205-06 (Fla. 2007) (noting that "Florida has a long tradition of recognizing the privacy interests of patients in confidential medical records."); see also State v. Cashner, 819 So. 2d 227, 229 (Fla. 4th DCA 2002) (holding that since "the compelled disclosure of a patient's medical records encroaches upon a patient's right to privacy, the state must demonstrate it has a compelling interest in the information contained in those records.").

8. Accordingly, since Epstein's health is not at issue, permitting BB to serve the subpoenas would violate Epstein's constitutional right of privacy in his medical information; the Court should quash the subpoenas.

9. Moreover, the subpoenas are overly broad as they fail to delineate a time period. Even assuming *arguendo* that BB was entitled to discovery regarding Epstein's prescriptions (which Epstein does not concede), evidence of medication taken, for

example, 10 years ago, cannot have any relevance to the instant case. Indeed, in her Supplemental Answers to Epstein's First Set of Interrogatories (Interrogatory #15), BB asserted that she went to Epstein's residence **one time** in the summer of 2003. It is clear, based on BB's own allegations, that the relevant time period should be limited to the summer of 2003. The Court should therefore quash the subpoenas as they are overly broad.

WHEREFORE, Defendant, JEFFREY EPSTEIN, respectfully requests the Court sustain his objections to the Notices of Production from Non-Parties Directed to Greens Pharmacy and Lewis Pharmacy, quash the subpoenas directed to Greens Pharmacy and Lewis Pharmacy and grant any additional relief the Court deems just and proper.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was sent by fax and U.S. Mail to the following addressees on this 28th day of August, 2009:

Theodore J. Leopold, Esq.
Spencer T. Kuvin, Esq.
Leopold-Kuvin, P.A.

Fax: [REDACTED]
Counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.

Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP

By: [REDACTED]

[REDACTED] Fax
[REDACTED]
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296

(Counsel for Defendant Jeffrey Epstein)