

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 502008ca028051XXXXMB AB

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Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.

HEARING BEFORE THE HONORABLE
DONALD HAFELE

Thursday, November 19, 2009
8:54 a.m. - 9:12 p.m.

Palm Beach County Courthouse
West Palm Beach, Florida 33401

Reported By:

Pamela J. Sullivan, RPR, FPR, CLR

Prose Court Reporting Agency, Inc.

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1 APPEARANCES:
 2 On behalf of Mr. Edwards:
 3 G. MICHAEL KEENAN, ESQUIRE
 4 G. MICHAEL KEENAN, P.A.
 5 1532 Old Okeechobee Road
 6 Suite 103
 7 West Palm Beach, Florida 33401
 8 561.684.9601
 9
 10 On behalf of the Defendant:
 11 ROBERT D. CRITTON, JR., ESQUIRE
 12 MICHAEL J. PIKE, ESQUIRE
 13 BURMAN, CRITTON, LUTTIER & COLEMAN, LLP, ESQUIRE
 14 303 Banyan Boulevard
 15 Suite 400
 16 West Palm Beach, Florida 33401
 17 561.842.2820
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1 firm imploded about two weeks ago this past
 2 Monday -- or a week ago this past Monday. Three of
 3 the cases, of the Epstein cases resided within that
 4 firm, at least that are filed cases. And
 5 Mr. Edwards, Mr. Berger and Mr. Adler have shown up
 6 on their behalf, on behalf of the Plaintiffs in
 7 those particular cases.
 8 The news media has reported it as well, and
 9 it's been confirmed through Herb Stettin, who is
 10 the chief restructuring officer, former judge down
 11 in Miami, that the FBI and the Feds took, through
 12 search warrants, approximately 40 boxes. Thirteen
 13 of them were boxes that related to, quote,
 14 Epstein-related matters.
 15 There are a number of issues. Apparently,
 16 the Epstein cases were showcased by Mr. Rothstein,
 17 and whomever else, who we don't know at this point
 18 in time, to either sell the case, sell a potential
 19 case, sell a structured settlement, whatever. We
 20 don't know whether -- who the lawyers were that
 21 were involved, if any, other than Mr. Rothstein.
 22 We don't know what the firm attempted to sell;
 23 although, we have seen now documents that have been
 24 posted on blogs that said that the firm was giving
 25 guarantees, that the firm had these crack former

1 PROCEEDINGS
 2 ---
 3 THE COURT: The motion I have before me now
 4 is Epstein's motion for protective order to
 5 prohibit inappropriate deposition questions.
 6 MR. CRITTON: None of the other materials got
 7 to you, Your Honor?
 8 THE COURT: No.
 9 MR. KEENAN: Judge, Michael Keenan, on behalf
 10 of Mr. Edwards.
 11 We did file a motion for protective order and
 12 a motion for stay in this case on behalf of
 13 Mr. Edwards. And I have a copy of that, if I may
 14 approach, Your Honor.
 15 MR. CRITTON: I think you have it in front of
 16 you, Your Honor.
 17 THE COURT: I see it.
 18 MR. CRITTON: Judge, if I can give you just a
 19 little background. There's a motion for
 20 preservation. I think that the least important
 21 motion, at least for purposes of today, is the
 22 inappropriate deposition. And I know we've got a
 23 bunch of people here.
 24 So as the Court probably has read in the
 25 media, the Rothstein, Rosenfeldt and Adler, PA, law

1 police officers and sheriff's officers to go out
 2 and to investigate and get, so to speak, the dirt.
 3 We know that they -- that he did wiretapping.
 4 And we also know that he forged an order by
 5 Judge Marra in Federal Court, among other items.
 6 What we do know is that they, more likely than not,
 7 sold an interest either in settled or nonsettled
 8 cases. Of course, I will now represent to the
 9 Court there are no settled cases, so therefore
 10 that's not something they could have sold.
 11 They may have reached an agreement to share
 12 either attorney's fees or proceeds that the
 13 Plaintiffs may receive in the cases. The
 14 Plaintiffs may have assigned causes of action,
 15 which the Court may be aware of is inappropriate.
 16 You can't assign a personal injury cause of action,
 17 et cetera.
 18 THE COURT: Well, why does that concern me
 19 and not the Florida Bar and the Federal and State
 20 authorities?
 21 MR. CRITTON: Because if LM or EW, for
 22 purposes of this case, assigned a portion -- all or
 23 a portion of their causes of action, then under
 24 Florida law, you can't assign a personal injury
 25 action; therefore, their cases would be dismissed.

1 THE COURT: Well, are there any such
 2 allegations even remotely made by anybody relative
 3 to the individual Plaintiffs, as opposed to
 4 Mr. Rothstein, individually? Likewise, are there
 5 any such allegations against any other members of
 6 the firm at this point?

7 MR. CRITTON: Well, no. But nobody knows,
 8 because nobody has seen those documents. And, in
 9 fact, what I also provided to the Court is we filed
 10 an emergency motion for preservation of evidence in
 11 Federal Court, which has been granted by the
 12 Federal Court. They considered it both an
 13 emergency and that it was appropriate to preserve
 14 evidence.

15 And conversations I had with Mr. Keenan, who
 16 represents Mr. Edwards here, is -- and with
 17 Mr. Edwards, is to the extent that he has any
 18 files, I would say that the Federal Court order
 19 would be applicable. And the chief restructuring
 20 officer, who has control apparently of all
 21 financial matters and all files, is agreeable to
 22 preserving evidence. You know, he's --

23 THE COURT: Who is Jay Howell, and what is
 24 his relationship with this case, Mr. Edwards?

25 MR. EDWARDS: He's a referring attorney on

1 the records.

2 Mr. Edwards -- and I'll let him speak and/or
 3 Mr. Keenan. To the extent that Mr. Edwards
 4 acquires any documents with regard to his two
 5 clients, at least for State Court purposes, all we
 6 would ask is the Court enter a preservation order.
 7 And I think we can work out language that's
 8 appropriate.

9 Not that we're entitled to the documents, not
 10 that they don't have any objection, but merely that
 11 they preserve the evidence. Because it's going to
 12 take us some time to unravel whether, in fact --
 13 whether and if there was inappropriate conduct, who
 14 did it, what the effects may be, whether there may
 15 be, not only conflict issues, but that the
 16 Plaintiffs may have assigned causes of action
 17 because they sold a portion of their settlement so
 18 that they could get money up front and therefore
 19 not settle. And we would ask that that also be
 20 done.

21 I had Mr. Edwards set for a deposition today.
 22 There was a protective order that was filed by
 23 Mr. Keenan. I think we've pretty much -- I'm
 24 agreeable to not doing his deposition today. And
 25 Mr. Keenan has filed, and I'll let him speak for

1 the case, but he has no -- he's in Jacksonville and
 2 he has no knowledge.

3 THE COURT: When you say referring attorney,
 4 though, I mean, if I may go into this briefly, was
 5 he the one who actually signed the clients up, or
 6 was it your firm that took care of all the
 7 contractual relationships with the clients?

8 MR. EDWARDS: It was actually my firm, prior
 9 to my becoming an employee of RRA. So it was the
 10 law office and Brad Edwards that signed the clients
 11 up, and the clients were referred by a Jacksonville
 12 attorney, Jay Howell.

13 THE COURT: Okay. I don't want to get into
 14 anything further that you may be uncomfortable
 15 with, but certainly to the extent that any veteran
 16 lawyer/judge sees the situation as I do, I
 17 certainly empathize with the situation. And we'll
 18 leave it at that.

19 MR. CRITTON: Judge, I think, from a
 20 practical standpoint, with regard to the
 21 preservation of evidence, the Federal Court order
 22 takes care of -- the Federal Court did not deal
 23 with Mr. Edwards at all; although, he was agreeable
 24 to entering into a preservation order, because they
 25 said it appears that Mr. Stettin was in control of

1 himself --

2 MR. KEENAN: He's doing great, Judge.

3 MR. CRITTON: But pretty much we've agreed
 4 to -- and depending on the Court -- we're agreeable
 5 to a 30-day stay with regard to the EW and the LM
 6 cases, because apparently Mr. Edwards has no access
 7 to those files. We're not waiving our right to
 8 depose Mr. Edwards. But similar to what the Court
 9 order is in the Federal Court, if we can work that
 10 out, is Mr. Stettin asked for 45 days. Now, the
 11 Court said if Mr. Edwards and I can work out the
 12 Federal Court scheduling deadline, that they'll
 13 give Mr. Stettin 45 days, or certainly more than
 14 that.

15 If we agree to a stay, then the Court
 16 presently has EW and LM set for trial, I think, on
 17 the March or the April docket. And we would also
 18 ask them -- and I think Mr. Edwards can speak to
 19 that issue -- said that if you could move us back
 20 one docket or 30 days or 45 days, whatever that
 21 timeframe is, if in fact the Court is inclined to
 22 enter a stay with regard to these two cases.

23 So I apologize for stealing Mr. Keenan's
 24 thunder. But I thought it was substantial that
 25 there was agreement at least on those issues. But

1 I also don't want to waive disposition on a
2 deposition question. That's one issue I'd like to
3 get resolved, too. But I know you've got a million
4 people here.

5 THE COURT: Yes.

6 MR. KEENAN: Judge, on behalf of Mr. Edwards
7 who is here, Mr. Edwards and Mr. Critton can try to
8 work out the language on an order for the
9 preservation of evidence. I think that's where
10 we're at right now.

11 Mr. Edwards, his access to the files, of
12 course, is restricted, because the files are either
13 with Mr. Stettin, with the bankruptcy trustee, or
14 with the Federal officers. So we can work that out
15 with Mr. Critton, I think. And I think that was
16 his suggestion, and that would be fine.

17 In terms of the stay, I think we have an
18 agreement in the protective order that -- to enter
19 an order with respect to the deposition of
20 Mr. Edwards today, and to stay the case for 30
21 days.

22 And Mr. Critton is correct that we would --
23 it would only be fair that we have everything
24 pushed back 30 days. And that really would be
25 practical, because, again, Mr. Edwards doesn't have

1 possession of the files, and, hopefully, his office
2 will be up and running within --

3 MR. EDWARDS: Two weeks.

4 MR. KEENAN: -- within two weeks, and he'll
5 be able to get back into the case and have a
6 secretary and the support staff you need to be able
7 to actually represent a client. So I think we're
8 in agreement on those issues.

9 MR. EDWARDS: And, Your Honor, just to
10 clarify, certain portions of the physical paper
11 file I do have stored in a warehouse facility,
12 ready to move into the new law firm, once the new
13 law firm is up and running, and, certainly, to the
14 extent that -- I'm willing to preserve the portions
15 of the file I have access to.

16 Now, RRA ran in a paperless world, and
17 there's a digital aspect of the file that I do not
18 have access to. And, apparently, based on
19 Mr. Critton's assertions, the FBI and/or
20 US Attorney's office which may be in possession of
21 a portion of various files, including this one. I
22 don't know that to be true.

23 So to the extent that I have access to any
24 portion of any documents, I will be willing to
25 preserve it. And just so Your Honor is apprized of

1 the current situation, I do not have a secretary,
2 staff, computers, printers --

3 THE COURT: Well, that's all right
4 considering --

5 MR. EDWARDS: -- or the ability to respond to
6 anything.

7 THE COURT: My personal empathy -- I mean,
8 once we see how this all turns out, I don't know.
9 But, again, I certainly can understand the
10 circumstances to a degree, and I know it's very
11 difficult to deal with it on a personal level,
12 so...

13 MR. EDWARDS: Thank you.

14 THE COURT: And I'm sure Mr. Critton feels
15 the same way, although he may not be able to say it
16 publicly.

17 In any event, it seems like, at least from
18 what I'm hearing, is that the parties have agreed
19 to the basics of this. The only thing that I'm
20 hesitant about doing is if I enter a stay, is to,
21 at the same time, reset it on a trial docket.

22 My 2010 calendar is not coming up. They
23 changed out my laptop for some reason, and I don't
24 have my 2010 calendar here in front of me. I think
25 that you said that the case is currently on the

1 docket call for -- what?

2 MR. PIKE: March or April.

3 MR. CRITTON: March or April.

4 THE COURT: April. Okay.

5 MR. CRITTON: Both -- and this would be
6 applicable to EW and LM.

7 THE COURT: Yeah. And I just -- I don't
8 think we -- I think that is the last docket that we
9 set cases on at this time. So, usually, I'll have
10 those days in my head as to what the docket dates
11 are.

12 But I suspect the next docket, I think, if
13 I'm not mistaken, the next docket call is -- I
14 don't want to say it because I'm not really sure.
15 I think it's in March -- the end of March docket
16 call or something along those lines, or the
17 beginning of April. I just don't have it --

18 MR. CRITTON: That's us, unfortunately.
19 That's where we are.

20 THE COURT: All right. So it would probably
21 be the next time the case would be set would likely
22 be during the June docket. But what I would like
23 to do is wait until at least the 30-day time period
24 runs before we do anything to put it on a docket.

25 I can tell you right now that it's likely

1 that it won't matter, meaning that whether we do it
 2 today or in 30 days, when I'm more comfortable
 3 after the expiration of the stay, that you'll still
 4 be on that same docket. And if not, you know, I'll
 5 adjust it in one or two combinations.
 6 MR. CRITTON: The only comment I'd make is
 7 LM, who was supposed to show up for her medical
 8 exam, didn't show up last week. She was supposed
 9 to give a deposition on Wednesday. She didn't show
 10 up, and I don't know whether Mr. Edwards couldn't
 11 get ahold of her or whether they didn't send her
 12 notification. But I'm behind the eight ball with
 13 those --
 14 THE COURT: Like I said, I'll take that all
 15 into consideration, you know, when the time comes.
 16 What you will do is you'll move to set the case for
 17 trial with the Court and have a hearing on it, in
 18 lieu of just sending a renote, so that I can, you
 19 know, hear any objections that there may be to the
 20 setting of the case on the trial docket, in light
 21 of all of this rather unusual matter that's going
 22 on here.
 23 MR. CRITTON: So it's off the docket, he'll
 24 file a motion again to reset it, and then we'll
 25 come in front of the Court?

1 heard --
 2 MR. CRITTON: I understand.
 3 THE COURT: -- relative to any of the other
 4 cases that are outstanding that are not being
 5 litigated by Mr. Edwards, then that's up to you.
 6 MR. CRITTON: We'll put a couple of orders
 7 together and provide those to the Court. Is that
 8 acceptable?
 9 THE COURT: Yes. You've got those here, and
 10 these envelopes here.
 11 So I'll defer on that, pending the expiration
 12 of the stay as to LM and EW.
 13 MR. EDWARDS: Thank you, Your Honor.
 14 THE COURT: All right. Take it easy. Nice
 15 to see you.
 16 (Whereupon, the hearing was concluded at
 17 9:12 a.m.)
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1 THE COURT: Right.
 2 MR. CRITTON: All right.
 3 THE COURT: And I presume we'll deal with
 4 this case and these cases in the same fashion, at
 5 least in principle, as the Federal Court has
 6 already decided. I don't think that there's a need
 7 to upset the apple cart or do anything that would
 8 be inconsistent with the Federal Court's
 9 determination that's already been made.
 10 All right. So the issue relative to the
 11 deposition questions can also wait, because I do
 12 have other matters that I need to get to. Because
 13 if we're going to do the stay, then there's not
 14 going to be any depositions taken, at least
 15 probably until the beginning of next year, in light
 16 of the Christmas holidays, I would suspect.
 17 MR. CRITTON: The only place it will come up,
 18 and I'll file it, because I'm getting the same
 19 issues, with the other state court.
 20 THE COURT: Right. But I'm not here for
 21 that.
 22 MR. CRITTON: I understand.
 23 THE COURT: You only moved under these two
 24 cases, and not under any of the other cases. If
 25 you want to file a similar motion and have it

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 4 CERTIFICATE
 5 THE STATE OF FLORIDA
 6 COUNTY OF PALM BEACH.
 7
 8 I, PAMELA J. SULLIVAN, Registered Professional
 9 Reporter, State of Florida at large, certify that I was
 10 authorized to and did stenographically report the
 11 foregoing proceedings and that the transcript is a true
 12 and complete record of my stenographic notes.
 13 Dated this 30th day of November, 2009.
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P. Sullivan
 PAMELA J. SULLIVAN, RPR, CLR

