

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No. 502008CA037319XXXXMB AB

B.B.

Plaintiff,

-vs-
JEFFREY EPSTEIN
and [REDACTED]

Defendants.

RULING REGARDING PLAINTIFF'S MOTION FOR PROTECTIVE
ORDER REGARDING DEFENDANT'S REQUEST FOR A MEDICAL
EXAMINATION AND DEFENDANT'S INCORPORATED MOTION FOR
PSYCHOLOGICAL MEDICAL EXAMINATION

EXCERPT OF HEARING BEFORE THE HONORABLE
DONALD HAFELE

Tuesday, January 26, 2010
Palm Beach County Courthouse
West Palm Beach, Florida 33401
9:22 - 9:37 a.m.

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1252

EXCERPT OF PROCEEDINGS

THE COURT: Well, here's the way I look at
it: First of all I believe that I am compelled
to follow the Fourth District Court of Appeal's
decision in Maguire that is dated December 23,
2009, approximately one month prior to today's
hearing.

So, the motion is brought as
Defendant's -- let's see. It's Plaintiff's
Motion for Protective Order, so I am going
grant the motion for protective order.

I am going to specifically find that the
doctor's affidavit, while I don't find it to
not be credible, I do find that since he will
be there and he will be visualizing the
Plaintiff or Plaintiffs who he sees, and he
will, himself, be eyeballing these people not
only during their examinations from the
standpoint of history, but also he has every
right if he wishes to monitor them while they
are being tested so as to determine whatever he
needs to determine during the testing process.

So as far as the Court is concerned, he
will have that opportunity during a six-hour

APPEARANCES:
On behalf of the Plaintiff:

SPENCER T. KUVIN, ESQUIRE
LEOPOLD KUVIN

Phone: [REDACTED]

On behalf of the Defendants:

MICHAEL J. PIKE, ESQUIRE
BURMAN, CRITTON, LUTTIER & COLEMAN, LLP

Phone: [REDACTED]

period, a very lengthy period and one which
this Court is well aware is somewhat
extraordinary. But this is not a 10 or 15
minute typical CME examination, and a 10 or 15
minute typical history taking process. This is
much longer.

And under those circumstances this Doctor
will be well indoctrinated to each Plaintiff
relative to anything that may have to be
eyeballed from his vantage point. And during
that period of time I think that he will have a
great opportunity to do that, and therefore he
does have the substantial equivalent of the
videotape itself since he will be there and has
every opportunity to be there during all
testing.

Sometimes I understand these doctors allow
their assistants to administer the test, but he
has every right to administer the tests if he
wants to and view these folks as much as he
wants to during the period of time that this
six-hour examination is going to take.

So, until and unless the Fourth District
Court of Appeal suggests some alternative
method, I don't believe that the decision of

1 this Court strays from the holding of that case
 2 as well as the McGarrah and that, in fact, here
 3 because of the significant length of the CME's,
 4 that in fact, this Doctor would have even a
 5 better ability and lengthier time period in
 6 order to observe each of the Plaintiffs whom he
 7 has seen.

8 So the motion is granted again with the
 9 same caveat as McGarrah and Maguire have held
 10 and that is these videos and transcripts will
 11 be discoverable if the Plaintiffs seek to use
 12 the materials at trial.

13 Thank you, Gentlemen, for your
 14 presentation. I wish you a very good rest of
 15 the week.

16 MR. PIKE: Judge, may I ask for one
 17 clarification on that?

18 THE COURT: Yes.

19 MR. PIKE: In the other cases -- I don't
 20 think Mr. Kuvvin has an objection to this. In
 21 the other cases we had a video feed into
 22 another room for Plaintiff's counsel as well as
 23 Defense.

24 MR. KUVIN: I don't need it.

25 MR. PIKE: May I watch the CME from

1 request as well.

2 MR. PIKE: All right. Thank you, Judge.

3 MR. KUVIN: Thank you for taking the
 4 Court's time. Judge, the last issue that we
 5 did have, though, and we can address it at
 6 another time if the Court requests are two
 7 separate detailed questionnaires that the
 8 Doctor wants filled out. If you don't have
 9 time this morning, we can come back.

10 THE COURT: Thank you. I appreciate that.

11 MR. KUVIN: Okay.

12 THE COURT: Have a good day.

13 MR. PIKE: Thank you, Judge.

14 (The hearing was concluded.)
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1 another room since it would not be a physical
 2 presence?

3 MR. KUVIN: I would have a strenuous
 4 objection to that because now you're violating
 5 what I believe is the tantamount pretense of
 6 the Boyle's (phonetic) decision referring to
 7 the defense attorney to attend a CME. I do not
 8 want a video feed. I am not going to request a
 9 video feed. I want just an empty camera in the
 10 room recording what occurs.

11 THE COURT: Well, again, in, in the
 12 footnote it says we have some concern that
 13 there are valid reasons why Defendant should
 14 not, and for the record the second DCA
 15 italicized and emphasized the word "not," be
 16 able to obtain a substantial equivalent of a
 17 videotape of a CME namely that allowing a
 18 Defendant to view any such videotapes would be
 19 like giving them unfettered attendance at the
 20 CME. And so, unless there is agreement of
 21 counsel, which there is not --

22 MR. PIKE: Okay.

23 THE COURT: Again, until an appellate
 24 court comes out that would be contrary to that
 25 position, this Court is going to deny that

CERTIFICATE

STATE OF FLORIDA
 COUNTY OF PALM BEACH

I, Cynthia Hopkins, Registered Professional
 Reporter and Florida Professional Reporter, State of
 Florida at large, certify that I was authorized to
 and did stenographically report the foregoing
 excerpt of proceedings and that the transcript is a
 true and complete record of my stenographic notes.
 Dated this 27th day of January, 2010.

Cynthia J. Hopkins
 Cynthia Hopkins, RPR



Job #1252