

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

Case No. 50 2009CA040800XXXXMB AG

JEFFREY EPSTEIN

Plaintiff,

v.

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS,
individually, and [REDACTED], individually,

Defendants.

**EPSTEIN'S RESPONSE IN OPPOSITION TO
ROTHSTEIN'S MOTION TO SET ASIDE DEFAULT**

Plaintiff, JEFFREY EPSTEIN, submits his response in opposition to Defendant, SCOTT ROTHSTEIN'S ("Rothstein") Motion to Set Aside Default, and states:

Background and Procedural Posture

1. Epstein filed the instant action against Rothstein and others on December 9, 2009.
2. Rothstein was the former Chairman and CEO of the now defunct law firm, Rothstein, Rosenfeldt & Adler, P.A. ("RRA"). Rothstein was a licensed, bona fide litigator, not a lay person unfamiliar with lawsuits and legal process.
3. Rothstein was indicted and pled guilty to five counts including racketeering, money laundering and fraud related to a massive Ponzi scheme he conducted through RRA. His sentencing is scheduled for June 9, 2010.
4. On December 09, 2009, Rothstein was personally served with the summons and Complaint in this action. See Verified Return of Service attached as **Exhibit A** and Affidavit of Carlos Aguirre, process server, attached as **Exhibit B**.

5. As set forth in Mr. Aguirre's affidavit, Rothstein was in a hallway, out of his cell, with other prisoners, when a guard called his name and he came forward. See Exhibit B ¶5. Mr. Aguirre then "personally placed the Complaint and Amended Summons in Mr. Rothstein's hands and advised him that he was being served with a lawsuit. Mr. Rothstein turned and walked away with the papers I served him." Id.

6. On December 31, 2009, Epstein filed a Motion for Default due to Rothstein's failure to respond to the Complaint.

7. A default (attached as **Exhibit C**) was entered by the Clerk on January 21, 2010.

8. Over two months after being served with the Complaint, Rothstein filed a Motion to Set Aside Default on February 17, 2010.

9. Several weeks later and on the eve of the hearing on the Motion to Set Aside Default, Rothstein filed an affidavit on March 8, 2010 in support of his Motion to Set Aside Default (attached as **Exhibit D**).

10. The next day, March 9, 2010, a hearing was conducted on Rothstein's Motion to Set Aside Default and the Court deferred ruling so the parties could conduct discovery related to the motion (3/9/10 Order attached as **Exhibit E**).

11. On April 15, 2010, Epstein filed a Motion to Strike Affidavit of Scott Rothstein because Epstein was unable to depose Rothstein.

12. On April 23, 2010, the Court denied Epstein's Motion to Strike Affidavit of Scott Rothstein and granted an additional thirty (30) days to depose Rothstein (4/23/10 Order attached as **Exhibit F**).

13. However, Epstein has been unable to locate, let alone depose, Rothstein.

14. Indeed, Rothstein's own counsel has had considerable difficulty locating and communicating with his client. In an April 22, 2010 article in the South Florida Business Journal (attached as **Exhibit G**), it was reported that Rothstein's counsel, Mark Nurik, Esq., was unaware of his client's location for substantial periods of time and has only had limited contact with Rothstein.

15. Moreover, Epstein's counsel has made the numerous efforts to locate and depose Rothstein, to no avail:

- a. Telephone conference with Lisa Kaye, Case Management Coordinator/Legal Liaison at the Federal Detention Center in Miami – was advised they do not have custody of Rothstein, have no information on his whereabouts and could not assist in coordinating his deposition;
- b. Telephone conference with U.S. Marshal's office – was advised they are not responsible for coordinating depositions and would not give provide any information regarding Rothstein.
- c. Telephone conference Bureau of Prisons Inmate Locator in Washington D.C. – was advised they have no record of Scott Rothstein;
- d. Telephone conference with Port St. Lucie Jail – was advised they had custody of Rothstein for brief period, but had no information on his whereabouts;
- e. Two voicemails for Bureau of Prisons – never returned a call;
- f. Two letters and two voicemails for United States Attorney Paul Schwartz – never returned a call or responded to letters; and
- g. Voicemail for United States Attorney Jeff Kaplan – never returned call.

Legal Standard – Setting Aside Default

16. It is axiomatic that a party moving to set aside a default must establish (1) due diligence in moving to set aside the default; (2) excusable neglect in failing to respond to the complaint; and (3) a meritorious defense to the allegations of the

complaint. See Hill v. Murphy, 872 So. 2d 919, 921 (Fla. 2d DCA 2003).

17. The party seeking to set aside the default bears the burden of demonstrating excusable neglect, a meritorious defense and due diligence. See Zivitz v. Zivitz, 16 So. 3d 841,849 (Fla. 2d DCA 2009)

18. The standard of review for an order denying a motion to vacate a default is whether the trial court abused its discretion. See Szucs v. Qualico Development, Inc., 893 So. 2d 708, 710 (Fla. 2d DCA 2005).

Rothstein's Affidavit Does Nothing to Establish a Meritorious Defense

19. Courts have repeatedly held that to establish a meritorious defense, the defendant must tender either a defensive pleading showing the defense or a sworn motion or affidavit stating the facts supporting the meritorious defense. See Hill v. Murphy, 872 So. 2d 919, 921 (Fla. 2d DCA 2003).

20. In Hill, the defendant filed an affidavit in support of a motion to set aside a default in which he asserted that he did not enter into an agreement with plaintiffs. See Hill, 872 So. 2d at 921. The court found that “[w]hile this assertion does constitute a factual allegation in an affidavit, it does not establish a meritorious defense” because the causes of action against the defendant (negligent supervision, civil conspiracy and FDUTPA) “[do not] depend on the existence of a contract between [the parties].” Id. The court went on to note that “[a] factual allegation that does not meet the substance of the allegations against the affiant **does and cannot** state a ‘meritorious’ defense.” Id. (Emphasis added). Accordingly, the court concluded that the trial court did not abuse its discretion in refusing to set aside the clerk’s default. Id.

21. Rothstein did not tender a defensive pleading and his affidavit is a far cry

from establishing a meritorious defense. While he claims to have "many meritorious defenses to the Complaint," he only purports to describe one, which constitutes neither a factual nor legal defense to any of the counts in the Complaint.

22. The crux of Rothstein's purported defense is that co-Defendant, Bradley Edwards (a former RRA attorney), filed lawsuits against Epstein on behalf of his clients prior to joining RRA and that these "were and are *real* cases, with *real* plaintiffs that have *real* claims against Epstein." See Exhibit D ¶9. Then, without any explanation, Rothstein makes the conclusory assertion that these facts "go[] against several counts in the Complaint, including, but not limited to, the RICO count."

23. From his affidavit, it appears that Rothstein has still not read the Complaint.

24. The Complaint, in no uncertain terms, acknowledges that [REDACTED] and [REDACTED] are in fact real plaintiffs who have filed real cases. Indeed, the Complaint alleges that Rothstein "[u]sed investor money to pay plaintiffs (i.e., [REDACTED] and [REDACTED] [REDACTED] 'up front' money such that plaintiffs would refuse to settle the Civil Actions." See Complaint ¶31.c. So it is unclear what defense Rothstein is attempting to establish by asserting that [REDACTED] and [REDACTED] are real plaintiffs with real cases, a fact alleged in the Complaint.

25. What is clear is that Rothstein's affidavit falls woefully short of demonstrating a defense, let alone a meritorious one, that would support setting aside the default and the Court should therefore deny Rothstein's motion. "A factual allegation that does not meet the substance of the allegations against the affiant **does and cannot** state a 'meritorious' defense." See Hill, 872 So. 2d at 921.

**Rothstein's Failure to Respond to the
Complaint Was Not the Result of Excusable Neglect**

26. To set aside a default, Rothstein must also demonstrate excusable neglect in failing to respond to the complaint. See Hill, 872 So. 2d at 921. Rothstein's affidavit does not controvert the fact he was personally served and demonstrates that he essentially ignored this lawsuit. Such indifference to legal process is inexcusable.

27. In Medcom USA, Inc. v. Ryder Homes & Groves, Co., 847 So. 2d 594, 596 (Fla. 2d DCA 2003), defendant moved to set aside a clerk's default and filed affidavits of its president, vice president and chief counsel, which asserted that defendant "had not been served with process; that [defendant's] first knowledge of the suit was the receipt of the final judgment ... and that the company had immediately retained counsel to take appropriate steps to respond to the action." The court affirmed the trial court's refusal to set aside default under these circumstances because the defendant's "bare allegations that [defendant's CEO] had not been served with process are not sufficient as a matter of law to impeach the process server's return of service and sworn statement that she personally served [defendant's CEO]." Id. See also Marceca v. Southeast Bank, N.A., 521 So. 2d 156, 156 (Fla. 4th DCA 1988) (affirming trial court's denial of motion to set aside default where defendant's counsel intentionally or through gross neglect ignored the necessity to respond to the complaint and summons); The Vanguard Group, Inc. v. Vanguard Security, Inc., 409 So. 2d 1219 (Fla. 3d DCA 1982) (holding trial court properly denied defendant's motion to set aside default where defendant's assertions showed only that defendant ignored the complaint).

28. Rothstein does not contest the fact that he was properly served with the Complaint and Summons. Instead, he asserts that "I do not recall being served with this lawsuit" and "[i]f I was properly served with this lawsuit, it has been misplaced within the pile of numerous lawsuits and voluminous amount of other legal papers and has not been located." See Exhibit D ¶6. That Rothstein is the target of "numerous lawsuits" as a result of his fraudulent scheme does not excuse his failure to respond to the instant suit.

29. Rothstein also asserts that he "did not have knowledge of [this lawsuit] until February, 2010." See Exhibit D ¶2. However, if Rothstein was personally served with the Complaint and Summons (which he does not contest), it follows that he must have had knowledge of the lawsuit. Since Rothstein's affidavit does nothing to controvert the verified return of service or affidavit of Carlos Aguirre (Exhibits A and B, respectively), the Court must assume that the Complaint and Summons were properly served. See Medcom USA, Inc., 847 So. 2d at 596 (holding that bare allegations that defendant had not been served with process are not sufficient as a matter of law to impeach the process server's return of service and sworn statement that she personally served defendant).

30. Indeed, Rothstein had to be taken from his cell into a separate room to be served with the lawsuit, a fact he admits in his affidavit. See Exhibit D ¶4. This is not a situation where, for example, a defendant's counsel's secretary misplaced a complaint and forgot to calendar a response deadline. To the contrary, Rothstein was an attorney (although disbarred) and former CEO of RRA, a law firm which employed over 70 lawyers, and was personally served with this lawsuit. Rothstein's affidavit does nothing

to establish that his failure to respond to the Complaint was a result of excusable neglect.

31. Rothstein's counsel, Mark Nurik, also asserts that he did not have knowledge of the lawsuit until "recently." See Motion to Set Aside Default ¶¶6 – 7.

32. However, nine separate news articles (attached as composite **Exhibit H**) including The Palm Beach Post (12/08/09), The Sun Sentinel (12/10/09), NBC Miami (12/08/09), The ABA Journal (12/09/09), South Florida Lawyers (12/10/09), huffingtonpost.com (12/11/09), The AmLaw Daily (12/08/09), Business Insider (12/10/09) and Courthouse News (12/16/09), reported Epstein's lawsuit against Rothstein. Notably, the articles were published within days of Rothstein being served with this lawsuit (December 9, 2009). Thus, Rothstein's and Nurik's assertions that they had no knowledge of this case until "recently" are belied by the widespread media coverage.

33. Given the foregoing, it can hardly be said that Rothstein ignoring the properly served Complaint and Summons constitutes excusable neglect.

34. Unlike Medcom, where the defendant asserted he was not served (and in which the court nevertheless found said assertion insufficient), Rothstein does not even contest the fact he was served; he just does not remember it. How convenient, yet insufficient.

35. As his assertions do not come close to rising to the level of excusable neglect, the Court should deny Rothstein's Motion to Set Aside Default.

Rothstein Fails to Establish Due Diligence in Moving to Set Aside the Default

36. Last, Rothstein must establish he acted with due diligence in moving to set

aside the default. See Hill, 872 So. 2d at 921.

37. Rothstein, in his affidavit, asserts that he learned of the lawsuit and default at some unspecified time in February, 2010 and then "immediately contacted [his] attorney and advise him of same which prompted the filing of my Motion to Set Aside Default and this Affidavit in Support thereof." See Exhibit D ¶8.

38. However, Rothstein fails to explain how he learned of this lawsuit or exactly when in February, 2010 he learned of it.

39. Rothstein filed his Motion to Set Aside Default on February 17, 2010. If Rothstein learned that a default was entered against him on February 1, 2010, for example, but failed to file anything for over three weeks, it can be argued he failed to exercise due diligence in moving to set aside the default.

40. But since Rothstein does not articulate how or exactly when he learned of the default, it is unclear whether Rothstein acted with due diligence in moving to set aside the default entered against him.

41. Accordingly, Rothstein has failed to meet his burden to establish the due diligence element. See Zivitz, 16 So. 3d at 849 (holding that the party seeking to set aside the default has the burden to demonstrate due diligence in seeking relief from default, excusable neglect and a meritorious defense).

Conclusion

42. Since Rothstein has failed to establish a meritorious defense to the allegations in the Complaint, excusable neglect in failing to respond to the Complaint and due diligence in moving to set aside the default, the Court must deny Rothstein's Motion to Set Aside Default.

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 27th day of May, 2010:

Gary M. Farmer, Jr., Esq.
Farmer, Jaffe, Weissing, Edwards, Fistos
& Lehrman, PL
425 N. Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301

[REDACTED] - fax
Attorneys for Defendant, [REDACTED].

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

Jack Scarola, Esq.
Searcy Denney Scarola Barnhart &
ShIPLEY, P.A.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

[REDACTED] F
Attorneys for Defendant Bradley Edwards

Law Offices of Marc S. Nurik
Counsel to Scott Rothstein
One East Broward Boulevard, Suite 700
Fort Lauderdale, FL 33301

[REDACTED]

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
303 Banyan Boulevard
Suite 400
West Palm Beach, FL 33401

[REDACTED] Fax

By: [Signature]
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
(Counsel for Defendant Jeffrey Epstein)

12/8

VERIFIED RETURN OF SERVICE

IN THE 15TH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY FLORIDA

TYPE OF WRIT: AMENDED SUMMONS & COMPLAINT

CASE NO: 502009CA040800XXXMB AG

PLAINTIFF
JEFFREY EPSTEIN

vs.

DEFENDANT(S)
SCOTT ROTHSTEIN, individually
et-al.,

TO: Scott Rothstein, Register #91256-004
c/o FDC, Miami
Federal Detention Center
33 NE 4th Street
Miami, FL. 33132

PURSUANT TO THE REQUEST OF: ROBERT D. CRITTON, JR., ESQ., WHOSE OFFICE IS LOCATED AT:
303 BANYAN BLVD., SUITE 400, WEST PALM BEACH, FL. 33401

I, CARLOS AGUIRRE C.P.S # 810 RECEIVED THIS PROCESS ON: 12/9/09 @ 8:00am
AND SERVED THE SAME ON: 12/9/09 @ 8:45am IN DADE COUNTY FLORIDA.

(X) INDIVIDUAL SERVICE: BY SERVING THE PERSON NAMED HEREIN A COPY OF THE AMENDED
SUMMONS COMPLAINT, PETITION OR INITIAL PLEADING.

COMMENTS: DESCRIPTION OF PERSON SERVED: WHITE MALE, 47 YEARS OLD, ABOUT 5'7
ABOUT 200lbs., GREY SHORT HAIR.

I ACKNOWLEDGE, THAT I AM A CERTIFIED PROCESS SERVER IN THE CIRCUIT IN WHICH THIS
PROCESS WAS SERVED AND THAT I HAVE NO INTEREST IN THIS MATTER.

UNDER PENALTY OF PERJURY, I DECLARE THAT I READ THE FOREGOING VERIFIED RETURN OF
SERVICE AND THE FACTS STATED IN IT ARE TRUE.


CARLOS AGUIRRE C.P.S # 810

COPY

EXHIBIT A

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

JEFFREY EPSTEIN

Complex Litigation, Fla. R. Civ. Pro.1201

Plaintiff,

CASE NO.502009CA040800XXXXMB AG

v.

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

Defendants.

In Person
12-9-09
8:45 am
CA 810

AMENDED SUMMONS

(Have not attempted to serve – Amended only as to Place of Service)

PERSONAL SERVICE ON A NATURAL PERSON

TO DEFENDANT(S): **Scott Rothstein, Register #91256-004**
 c/o FDC, Miami
 Federal Detention Center
 33 NE 4th Street
 Miami, FL 33132

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint/petition with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the Court to hear your side of this case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

SHARON R. BOCK
Clerk & Comptroller
P.O. Box 4667
West Palm Beach, Florida
33402-4667

vs.
Case No:

If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

ROBERT D. CRITTON, JR.
BURMAN, CRITTON, LUTTIER & COLEMAN
303 Banyan Boulevard
Suite 400
West Palm Beach, FL 33401
561/842-2820

THE STATE OF FLORIDA:

TO EACH SHERIFF OF THE STATE: YOU ARE COMMANDED to serve this summons and a copy of the complaint/petition in this action the above-named Defendant.

DATED ON December 8, 2009

SHARON R. BOCK
CLERK OF THE CIRCUIT COURT

(SEAL)

BY: EPNA SMITH
DEPUTY CLERK

(See Reverse Side)
(Vease al reves)
(Voir de L'autre cote de)

vs.
Case No:

IMPORTANTE

Usted ha sido demandado legalmente. Tine 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada atelefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal usted anviar por correo o entregar una copia de su respuesta a la persona deominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

IMPORANT

Des poursuites judiciares ont ete enterprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coupe de telephone est insuffisant pour vous proteger. Vous etes obligé de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende voutre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vouc risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reerence d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une response ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
Case No. 50 2009CA040800XXXXMB AG

JEFFREY EPSTEIN

Plaintiff,

AFFIDAVIT OF CARLOS AGUIRRE

STATE OF FLORIDA)

MIAMI-DADE COUNTY)

BEFORE ME, the undersigned authority personally appeared
having personal knowledge and being duly sworn, deposes and says:

1. I, Carlos Aguirre, am certified by the State of Florida to serve legal process, C.P.S. #810.
2. I was hired by the law firm of Burman, Critton, Luttier & Coleman to serve process in this matter on the Defendant, Scott Rothstein.
3. On December 8, 2009, I contacted the Federal Bureau of Prisons via facsimile requesting to serve process on Scott Rothstein.
4. On December 9, 2009, I arrived at the Federal Detention Center in Miami, Florida and personally served Scott Rothstein with the Complaint and Amended Summons at approximately 8:45 a.m.
5. Mr. Rothstein was in a hallway, out of his cell, with other prisoners. A

EXHIBIT B

guard called Mr. Rothstein's name and he came forward. I personally placed the Complaint and Amended Summons in Mr. Rothstein's hands and advised him that he was being served with a lawsuit. Mr. Rothstein then turned and walked away with the papers I served him.

FURTHER THE AFFIANT SAYETH NAUGHT.



Carlos Aguirre

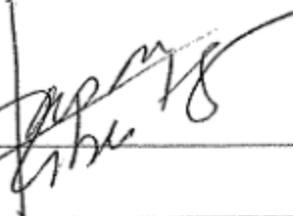
STATE OF FLORIDA

MIAMI-DADE COUNTY

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Carlos Aguirre known to me to be the person described in and who executed the foregoing Affidavit, who acknowledged before me that he/she executed the same, that I relied upon the following form(s) of identification of the above named person: *Personally known*, and that an oath was/~~was~~ not taken.

WITNESS my hand and official seal in the County and State last aforesaid this

23rd day of *April*, 2010.

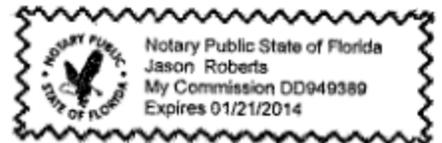


PRINT NAME: _____ (SEAL)

NOTARY PUBLIC/STATE OF FLORIDA

COMMISSION NO.:

2



1/21 F
IN THE CLERK'S OFFICE OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH
COUNTY, FLORIDA

Case Number: 502009CA040800XXXXMB
Division: AG

JEFFREY EPSTEIN
Plaintiff(s),

-vs-

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS individually
and [REDACTED] individually
Defendant(s),

DEFAULT

A default is entered in the above styled cause against: **SCOTT ROTHSTEIN, individually** for failure to serve a pleading at the time required by law.

DONE AND ORDERED at the Clerk's Office, City of West Palm Beach, this 21 day of JANUARY, 2010.

Sharon R. Bock
Clerk & Comptroller

By: KIMBERLY BRADLEY
Deputy Clerk

Copies furnished to:

BURMAN, CRITTON, LUTTIER & COLEMAN LLP 303 BANYAN BLVD., STE 400, WEST PALM BEACH, FL 33401-4349

SCOTT ROTHSTEIN, INDIVIDUALLY C/O FDC, MIAMI FEDERAL DETENTION CENTER, 33 NE 4TH STREET, MIAMI, FL 33132

GARY FARMER, ESQ, 425 N. ANDREWS AVENUE, SUITE 2, FT. LAUDERDALE, FL 33301

JOHN SCAROLA, ESQ, 2139 PALM BEACH LAKES BLVD WEST PALM BEACH, FL 33409

PADULA & GRANT, PLLC 365 E. PALMETTO PARK ROAD, BOCA RATON, FL 33432-5015

EXHIBIT C

RDG

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 [REDACTED]

Defendants.

_____ /

AFFIDAVIT OF SCOTT W. ROTHSTEIN
IN SUPPORT OF MOTION TO SET ASIDE DEFAULT

STATE OF FLORIDA)
) ss.:
COUNTY OF)

Before me, the undersigned authority, personally appeared, SCOTT W. ROTHSTEIN, who after being by me first duly sworn, on oath, deposes and states as follows:

1. I am a Defendant in the above-captioned matter.
2. I did not respond to the Summons and Complaint in this lawsuit because I did not have knowledge of its existence until February, 2010. In February 2010, I learned that this lawsuit was filed against me and that a default judgment had been entered against me for failure to respond.
3. From December 1, 2009 until March 1, 2010, I was detained at the Federal Detention Center in Miami, Florida¹.

¹ On March 1, 2010, I was transferred to the Port St. Lucie jail.

4. During that time frame I was pulled out of my cell many times by the Bureau of Prisons staff to receive service of lawsuits at all hours.

5. Inasmuch as the Bureau of Prisons rules and regulations do not allow a prisoner to hand any documents to any visitors, including counsel, upon service of various lawsuits, I simply informed my attorney who would then look up the case with the appropriate court and contact the attorney for the plaintiff(s) in such cases and/or take whatever appropriate action was necessary.

6. To the best of my knowledge and belief, I do not recall being served with this lawsuit. If I was properly served with this lawsuit, it has been misplaced within the pile of numerous lawsuits and voluminous amount of other legal papers and has not been located. Even to date, I have not located the Complaint or Plaintiff's Motion for Default.²

7. I state in good faith that if I had actual knowledge of this lawsuit I would have advised my attorney as I have done with various other lawsuits currently pending against me.

8. As soon as I learned of the lawsuit, I immediately contacted my attorney and advised him of same which prompted the filing of my Motion to Set Aside Default and this Affidavit in Support thereof.

9. I have a viable defense to the allegations contained in the Plaintiff, Jeffrey Epstein's ("Plaintiff" or "Epstein"), Complaint. Without providing a detailed response to the Complaint herein, just one of many meritorious defenses to the Complaint is that at least one, if not more, of the lawsuits against Plaintiff which he references as the basis of this instant lawsuit (the "Civil Actions"), was filed with the court on behalf of certain clients by a defendant herein, Bradley Edwards ("Edwards"), *prior to* his employment as an attorney at the law firm Rothstein Rosenfeldt Adler ("RRA"). The fact that Edwards, prior to his employment with RRA, and prior

² Since learning of this lawsuit, my attorney obtained a copy of the Complaint.

to our introductions with one another, already had client(s) suing Epstein in Civil Actions, goes against several counts in the Complaint, including, but not limited to, the RICO count. In fact, the Civil Actions filed by Edwards and/or other attorneys at RRA were and are *real* cases, with *real* plaintiffs that have *real* claims against Epstein and, this instant lawsuit is Plaintiff's feeble attempt to take advantage of my unfortunate circumstances to disqualify claims by real persons that deserve to have their day in court.

10. I respectfully submit that if the Court were to disallow my Motion to Set Aside Default, not only would I be extremely prejudiced inasmuch as I have viable defenses to the allegations contained in Plaintiff's Complaint, but the plaintiffs in the Civil Actions that Edwards and others at RRA filed against Epstein which he references in his Complaint in this matter would be prejudiced as well. A default entered against me in this matter would have the same effect as my admission to the assertions made by Plaintiff which would, in essence, allow Epstein to prevail against the plaintiffs in the Civil Actions on the basis that they are frivolous and fraudulent lawsuits, which they are not.

Under penalties of perjury, I declare that I have read the foregoing affidavit and the facts stated in it are true.

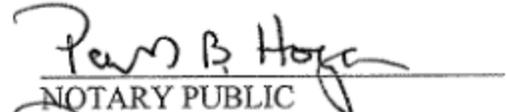

SCOTT W. ROTHSTEIN

STATE OF FLORIDA)
)
St. Lucie County)ss.:
)

BEFORE ME the undersigned authority, personally appeared SCOTT W. ROTHSTEIN, who after being by me first duly sworn on oath deposes and says that he is the Defendant in the above-styled cause; that he has read the foregoing Affidavit and the facts contained herein are true and correct.


SCOTT W. ROTHSTEIN

SWORN TO AND SUBSCRIBED before me this 8th day of March, 2010, by SCOTT W. ROTHSTEIN, who is personally known to me or who has produced St. Lucie County Jail I.D. as identification.


NOTARY PUBLIC
Patrick B. Hogan
Typed or Printed Name of
Notary Public

My commission expires:

NOTARY PUBLIC-STATE OF FLORIDA
Patrick B. Hogan
Commission # DD910543
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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA

JEFFREY EPSTEIN

Complex Litigation, Fla. R. Civ. Pro.1201

Plaintiff,

Case No. 50 2009CA040800XXXXMB AG

v.

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS,
individually, and [REDACTED], individually,

Defendants.

ORDER ON DEFENDANT SCOTT ROTHSTEIN'S MOTION TO SET ASIDE DEFAULT

THIS CAUSE came before the Court on Defendant Scott Rothstein's Motion to Set Aside Default, and the Court having heard argument of counsel and being fully advised in these premises, it is hereby

ORDERED and ADJUDGED that said Defendant's Motion is hereby ~~granted~~
~~denied~~ *denied - defense pending a special set*
hearing to be. Parties are given leave to
conduct discovery in regard the MOTION

DONE AND ORDERED at Palm Beach County Courthouse, West Palm Beach,
Florida, this 9th day of Mar., 2010

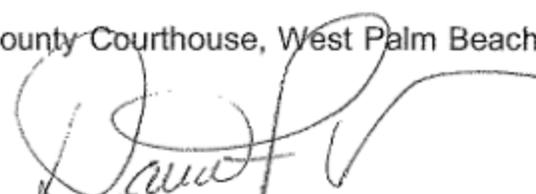

David F. Crow
Circuit Judge

EXHIBIT E

Copied furnished to:
ROBERT D. CRITTON, JR., ESQ., Burman, Critton, Luttier & Coleman, 303 Banyan Boulevard, Suite 400, West Palm Beach, FL 33401, MARC S. NURIK, ESQ., Law Offices of Mark S. Nurik, One East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301, GARY M. FARMER, JR., ESQ., Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, PL. 425 N. Andrews Avenue, Suite 2, Fort Lauderdale, FL 33301, JACK SCAROLA, ESQ., Searcy Denney Scarola Barnhart & Shipley, P.A. 2139 Palm Beach Lakes Blvd., West Palm Beach, FL 33409, and JACK ALAN GOLDBERGER, ESQ., Atterbury Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401-5012

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

JEFFREY EPSTEIN

Complex Litigation, Fla. R. Civ. Pro.1201

Plaintiff,

Case No. 50 2009CA040800XXXXMB AG

v.

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS,
individually, and [REDACTED], individually,

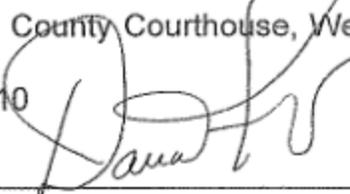
Defendants.

ORDER ON MOTION TO STRIKE AFFIDAVIT OF SCOTT ROTHSTEIN

THIS CAUSE came before the Court on Motion to Strike Affidavit of Scott Rothstein, and the Court having heard argument of counsel and being fully advised in these premises, it is hereby

ORDERED and ADJUDGED that said Motion is hereby ~~granted~~ denied. However, the Motion for Removal of Default will be postponed for 30 days to allow the Plaintiff to obtain discovery as to the Affidavit.

DONE AND ORDERED at Palm Beach County Courthouse, West Palm Beach, Florida, this ~~20th~~ day of April, 2010



David F. Crow
Circuit Judge

EXHIBIT F

Copied furnished to:

ROBERT D. CRITTON, JR., ESQ., Burman, Critton, Luttier & Coleman, 303 Banyan Boulevard, Suite 400, West Palm Beach, FL 33401, MARC S. NURIK, ESQ., Law Offices of Marc S. Nurik, One East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301, GARY M. FARMER, JR., ESQ., Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, PL. 425 N. Andrews Avenue, Suite 2, Fort Lauderdale, FL 33301, JACK SCAROLA, ESQ., Searcy Denney Scarola Barnhart & Shipley, P.A. 2139 Palm Beach Lakes Blvd., West Palm Beach, FL 33409, and JACK ALAN GOLDBERGER, ESQ., Atterbury Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401-5012

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South Florida > Blog > [Scott Rothstein: Picking up the Pieces](#) > 2010 > April > Rothstein sentencing moved to June 9

Blog: Scott Rothstein: Picking up the Pieces

Rothstein Sentencing Moved To June 9

Paul Brinkmann
 Reporter
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Thursday, April 22, 2010, 1:25pm EDT | Modified: Thursday, April 22, 2010, 1:40pm

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A judge has moved Ponzi schemer Scott Rothstein's sentencing back more than a month. That is not necessarily so unusual, but the reasons seem pretty weird.

There's a motion from Rothstein's attorney, Marc Nurik, that's unlike anything I've seen in a court case recently.



Marc Nurik

Nurik claims that Rothstein's cooperation with federal authorities by providing evidence for alleged mafia stings has interfered with Nurik's ability to communicate with him.

According to federal authorities and numerous media reports, Rothstein helped set up two employees of Five Star Executive Protection & Investigation, a local security firm that had ties to the mafia, and Roberto Settineri, an alleged Sicilian mafia connection in South Florida. All three were hit with federal indictments after Rothstein allegedly asked them to launder money and destroy evidence of his Ponzi scheme.

This comes after the first sealed document was filed in Rothstein's criminal case, which is a signal that might mean the feds are recommending a lighter sentence because of cooperation.

Nurik [has already admitted](#) to creating a smokescreen of misdirection so that the public and certain alleged criminals would think that Rothstein was flaunting federal jurisdiction before he was arrested.

Here's the relevant text of Nurik's request for a later sentencing date:

"Specifically, the defendant is presently in protective housing outside of this district and treated differently than other inmates. Undersigned counsel's contacts with his client must be arranged and approved in advance through the government, which creates delay.

"There have been numerous occasions in the past few months when undersigned counsel has been unaware of his client's location and has been repeatedly out of contact with his client for substantial periods of time, including one period for over two weeks.

"Given these limitations, in the past five weeks, counsel has only been able to meet with his client on two occasions. Currently, there is no ability to e-mail the defendant, and phone contact is very limited. Even the sending and receipt of legal mail takes longer than the norm."

Rothstein was to be sentenced May 6. The new date is June 9, at 9:30

Categories: [Legal Services](#), [Energy & the Environment](#)

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EXHIBIT G



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The Palm Beach Post

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Rothstein, Epstein scandals converge with sex offender claiming he was used in swindle

By **JANE MUSGRAVE**

Palm Beach Post Staff Writer

Updated: 7:51 p.m. Tuesday, Dec. 8, 2009

Posted: 9:27 p.m. Monday, Dec. 7, 2009

Two of the biggest scandals to rock South Florida in recent years merged today when attorneys representing billionaire sex offender Jeffrey Epstein filed a lawsuit claiming the part-time Palm Beach resident is the victim of accused swindler Scott Rothstein.

Rothstein, who is accused of running a \$1.2 billion Ponzi scheme from his Fort Lauderdale-based law firm, trumped up civil lawsuits against Epstein, according to the complaint filed in Palm Beach County Circuit Court. He then lured investors by telling them Epstein had agreed to settle the lawsuits for as much as \$200 million and they could get a cut of the cash.

The problem for investors, according to the lawsuit filed by West Palm Beach attorney Robert Critton, is that Epstein never agreed to settle the lawsuits filed on behalf of women who are identified only by pseudonyms, such as [REDACTED].

"The offer of a \$200 million settlement by Epstein was completely fabricated," Critton wrote. "No such offer had ever been made."

Epstein faces roughly two dozens lawsuits filed by women who claim they were teenagers when he lured them to his Palm Beach mansion and paid them for massages and sex. The lawsuits started rolling in after he pleaded guilty in 2008 to felony solicitation of prostitution and procuring teenagers for prostitution. He was released from jail in July after serving 13 months of an 18-month sentence.

Attorneys who worked for Rothstein, including Bradley Edwards and former Palm Beach County Circuit Judge William Berger, handled the three lawsuits the firm filed. But, they said, those represent only a fraction of the young women who Epstein molested.

"What the evidence is really going to show is that Mr. Epstein . . . has every single day of his life made an attempt to sexually abuse children," Edwards said at a July court hearing. "We're not talking about five, we're not talking about 20, we're not talking about 100, we're not talking about 400 . . . we're talking about thousands of children."

Such talk was part of a carefully orchestrated scheme to convince investors they stood to make millions by investing with Rothstein, Critton said.

Likewise, Critton said, Edwards has said he intends to depose various luminaries to testify against Epstein. Former president Bill Clinton, business mogul Donald Trump, former Sony Record president Tommy Mottola and magician David Copperfield have all been identified in court papers as people that will be deposed.

While friends or acquaintances of Epstein, they have no information about the women involved in the lawsuits, Critton said.

"The sole purpose in the scheduling of these depositions or listing high profile friends/acquaintances as potential witnesses was, again, to 'pump' the cases to investors," Critton wrote.

EXHIBIT H *Composite*

Neither Edwards or Berger responded to phone calls for comment.

Critton isn't the first to make allegations that Rothstein fabricated cases as a way to lure investors.

Fort Lauderdale attorney William Scherer, who has filed a \$100 million lawsuit against Rothstein on behalf of scores of investors, has made similar claims. In a 147-page lawsuit, Scherer also said Rothstein told an investor about the phony \$200 million settlement offer from Epstein.

"He would use . . . cases as bait for luring investors into fictional cases," Scherer was quoted as saying. "All of the cases he allegedly structured were fictional. I don't believe there was a real one."

Rothstein, a potent political fund-raiser who turned a small, unknown law firm into a powerhouse in seven short years, has pleaded not guilty to charges of RICO conspiracy, money-laundering conspiracy, mail fraud and two counts of wire fraud. His kingdom collapsed in late October when the feds raided his firm, Rothstein, Rosenfeldt & Adler. It is now closed. He has been disbarred.

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Epstein Claims Rothstein Link In Lawsuits

December 10, 2009 | By Jane Musgrave The Palm Beach Post

Blame the victim.

It's the oldest trick in the book when it comes to dodging allegations of sexual abuse, according to attorneys representing more than a dozen women who are suing Palm Beach billionaire Jeffrey Epstein, claiming he paid them for nude massages and sex when they were as young as 14.

Epstein filed suit Monday in Palm Beach County Circuit Court, saying Ponzi scheme suspect Scott Rothstein trumped up lawsuits against him as part of a twisted money-making plan. But while aimed at the Fort Lauderdale attorney, it is nothing more than an effort to tarnish the women, their attorneys said Tuesday.

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"It's like a SLAPP suit," said attorney Sid Garcia, who is representing a woman who says she was 17 when she was molested by the 58-year-old financier. Epstein pleaded guilty in 2008 to solicitation of prostitution and procuring teenagers for prostitution and served 13 months of an 18-month sentence.

An acronym for "strategic lawsuit against public participation," SLAPPs are most commonly used by developers to silence critics by scaring them with the prospect of huge legal bills.

"It's really not directed at Rothstein," Garcia said of the lawsuit. "It's an attempt to make his victims looks bad by association."

Attorney Spencer Kuvin, who won a confidential settlement from Epstein for one woman and is representing another in a pending lawsuit, agreed.

In the lawsuit filed by West Palm Beach attorney Robert Critton, Epstein claims Rothstein used the lawsuits to lure investors as part of a \$1.2 billion Ponzi scheme. Trumpeting the chance to turn a quick profit, Rothstein falsely reported that Epstein had agreed to settle the lawsuits for as much as \$200 million. By paying a discounted rate up front, they could ultimately cash in when the settlement was paid in full.

Rothstein, whose law firm collapsed after federal agents raided it in late October, last week pleaded not guilty to charges that he made millions running similar schemes since 2005.

Critton claims Rothstein, with the help of attorney Bradley Edwards, who worked for him, pumped up investors by telling them they would call such luminaries as former President Bill Clinton, business tycoon Donald Trump and magician David Copperfield to testify against Epstein. The message was that Epstein would pay big to protect his celebrity friends.

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Epstein Claims Rothstein Link In Lawsuits

December 10, 2009 | By Jane Muegrave The Palm Beach Post

(Page 2 of 2)

In the lawsuit, Critton also goes after one of the three women who were represented by Rothstein's firm. Critton points up contradictions in sworn statements the woman, identified only as [REDACTED], made to FBI agents compared with those she made once the lawsuit was filed.

In an interview with an FBI agent in 2007, she described Epstein as "an awesome man" and described herself as a prostitute.

She said none of the girls she took to Epstein ever complained. "They'd beg me, you know, for us to go to Jeffrey's house because they love Jeffrey. Jeffrey is a respectful man," she said.

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In a September deposition, her story changed. "Once they were there, they were scared out of their mind," she said. "They did it any ways and some of them walked out and said, [REDACTED], don't ever do this to me again. This is the worst thing that ever happened to me."

Critton said none of the women who are suing Epstein for millions were drugged or coerced. They came to his Palm Beach mansion freely. Many came 20, 30 or 40 times, some well after they turned 18. Further, he said, many either were or later became prostitutes or strippers. Any psychological problems they had had occurred well before they hooked up with Epstein.

Kuvin said such claims miss the point.

"This case is about whether or not a young girl has the capability to consent to inappropriate sexual contact." If a 14-year-old asked an adult to go get drunk, it's the adult's responsibility to stop her - not to drive her to the bar, he said. In these cases, he said, Epstein solicited underage girls for sex.

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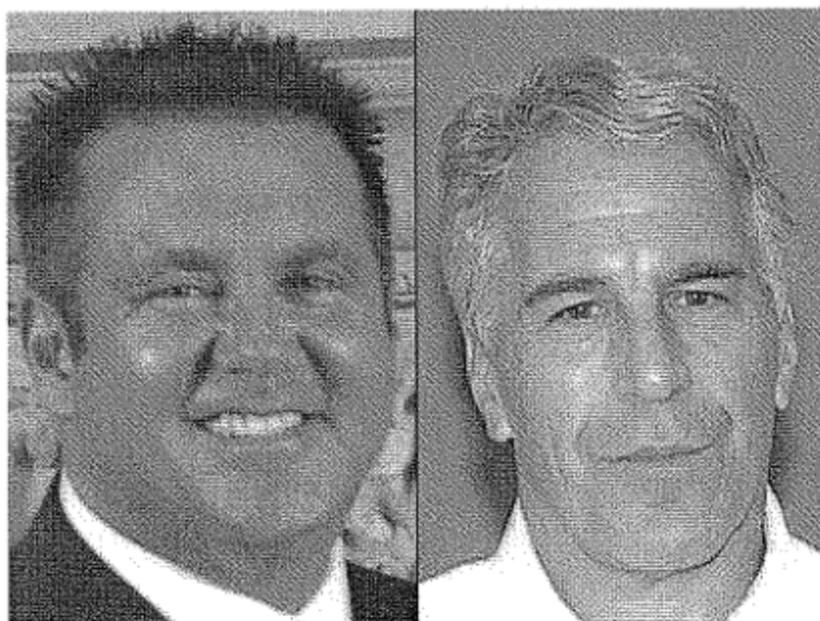
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Pervy Billionaire a Rothstein "Victim"

Billionaire sex offender suing alleged Ponzi schemer

By BRIAN HAMACHER

Updated 1:30 PM EDT, Tue, Dec 8, 2009



AP

Billionaire sex offender Jeffrey Epstein isn't exactly a sympathetic figure, and his alleged weakness for underage prostitutes may have made him a target for accused con man Scott Rothstein.

The Palm Beach mogul is accusing the alleged Fort Lauderdale Ponzi schemer of filing trumped-up sexual harassment lawsuits against him to help proliferate his massive \$1.2 billion scam, run through his Rothstein Rosenfeldt Adler law firm.

In a lawsuit filed today, Epstein alleges Rothstein told investors they'd get their hands on the nearly \$200 million in settlements that Epstein had worked out with RRA, according to the Palm Beach Post.

Problem is, Epstein hadn't agreed to pay out.

"The offer of a \$200 million settlement by Epstein was completely fabricated," the suit reads. "No such offer had ever been made."

To make matters worse, Rothstein's lawyers were planning on calling some of Epstein's high profile buddies to testify in the cases, including Bill Clinton, Donald Trump and David Copperfield.

"The sole purpose in the scheduling of these depositions or listing high profile friends/acquaintances as potential witnesses was, again, to 'pump' the cases to investors," the lawsuit reads.

Rothstein, 47, is currently being held in a Miami federal prison, after he was charged last week with five counts related to his scheme, including fraud and racketeering.

Epstein, 56, is a successful financier who pled guilty to procuring teenagers for prostitution in 2008 and did 13 months behind bars.

First Published: Dec 8, 2009 1:11 PM EDT

Find this article at:

<http://www.nbcmiami.com/news/local-beat/Pervy-Billionaire-a-Rothstein-Victim-78784972.html>

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Tort Law

Billionaire Sex Offender's Racketeering Suit: Rothstein Lawyers Lied About Me

Posted Dec 9, 2009 6:50 PM CDT

By [Martha Neil](#)

Just when it might have seemed that alleged wrongdoing related to the spectacular downfall of Rothstein Rosenfeldt Adler could not become more bizarre, a billionaire convicted sex offender has filed a civil racketeering lawsuit against two onetime partners of the South Florida law firm.

Contending that they prejudiced his defense of criminal and civil actions related to his alleged sexual activities with underage teens by lying about the facts in order to "pump" a \$1.2 billion Ponzi scheme that made use of the law firm name, Jeffrey Epstein is seeking injunctive relief, unspecified damages in excess of \$15,000 and attorney fees. Among other allegations, his Palm Beach Circuit Court suit contends that Scott Rothstein, as well as others at the firm, falsely claimed to investors in the Ponzi scheme that Epstein had offered to make a \$200 million settlement and acted illegally and unethically in civil litigation against him that is still ongoing.

A copy of the [complaint](#) (PDF), which was filed Monday, is provided by the [Am Law Daily](#). In addition to criminal practices and racketeering counts, it asserts claims for abuse of process, fraud and conspiracy to commit fraud.

Factually, it alleges that Rothstein and unspecified co-conspirators forged federal court orders and opinions, improperly intercepted conversations and pursued a litigation strategy unrelated to the merits of their clients' cases and their clients' interests in order to further the claimed Ponzi scheme. Rothstein told investors that he represented 52 female clients in Epstein-related matters, the suit says, when in fact he had filed only "weak" cases on behalf of exactly three young women.

As detailed in earlier [ABAJournal.com](#) posts, Rothstein, who until recently was the RRA firm's managing partner and chief executive officer, is now jailed in a federal fraud case and the dissolving law firm is in receivership, facing multiple lawsuits. Rothstein also agreed to give up his Florida law license.

Attorney Marc Nurik, a former RRA partner who is representing Rothstein in the criminal case, was not immediately available for comment, the [Am Law Daily](#) states.

Epstein's suit was filed by attorney Robert Critton Jr. of Burman Critton Luttier & Coleman in West Palm Beach.

Additional coverage:

[ABAJournal.com](#): "Billionaire's Secret Sex Case Plea Deal Shows What a Good Defense Can Do"

[ABAJournal.com](#): "Filing: Rothstein Made \$35M in 2008; Name Partner: I Wasn't Paid \$6M"

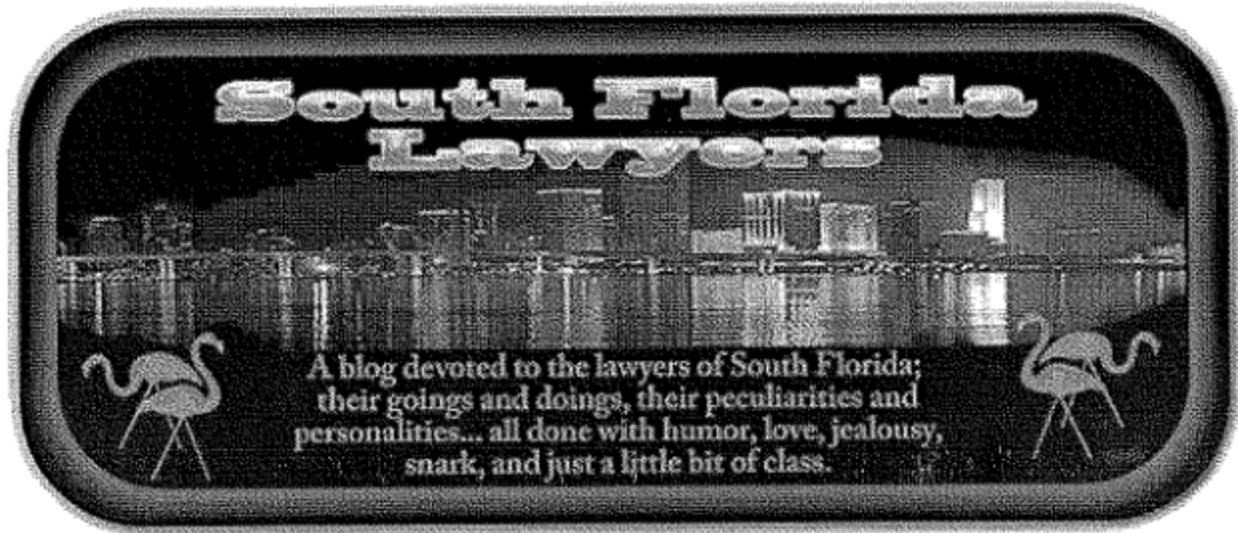
[Palm Beach Post](#): "Billionaire sex offender says he's a victim of Scott Rothstein"

[Palm Beach Post](#): "Victims' lawyers say sex offender's lawsuit aimed at scaring female victims"

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THURSDAY, DECEMBER 10, 2009

Parsing the Epstein v. Rothstein Suit



Palm Beach lawyers Robert Critton and Michael Pike have filed suit on behalf of Palm Beach billionaire Jeffrey Epstein against Rothstein and former RRA attorney Bradley J. Edwards in Palm Beach state court.

You can read the complaint [here](#).

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Much of the suit is a rehash of the Ponzi scheme allegations, and how Rothstein would talk up all the victims his firm represented that were reaching settlements with Epstein, except for some reason Epstein always had to pay out over time, even though the victims wanted the money right now.

In actuality, according to the suit, RRA only represented three victims in pending litigation -- one in federal court, and two in state court. The complaint alleges that Epstein has been harmed in his defense of these suits, for a number of reasons.

In particular, the suit really goes after Edwards, alleging that he knew or should have known that Rothstein was using the existing cases for purposes of promoting the Ponzi scheme. The complaint alleges that the RRA "Litigation Team" served discovery that was unrelated to the three claims they were handling but with the sole purpose of "pumping" the Ponzi Scheme and luring new investors.

Specifically, the complaint alleges that RRA went after records of flights aboard Epstein's private jet where high-profile celebrities were allegedly on board when sexual assaults supposedly took place, and that the Litigation Team sought the depositions of these celebrities.

Edwards allegedly took unnecessary depositions of the pilots, and asked inflammatory questions allegedly for the purpose of "pumping" the attractiveness of the Ponzi scheme.

The witnesses allegedly on Edwards' deposition list included The Donald, Alan Dershowitz, Bill Clinton (of course), Tommy Mottola, and illusionist David Copperfield(?). Allegedly Rothstein would then go on to tell potential investors that Epstein is settling all these cases in order to protect his high-profile friends.

The complaint goes on to detail other alleged discovery irregularities, including a deposition of Epstein (in which Russell Adler was in attendance), where lots of inflammatory questions were allegedly asked so the video of the deposition could be shown to new investors.

The complaint also alleges that Edwards went overboard at hearings, and wildly overstated the extent of Epstein's alleged crimes again just to pump the scheme. Further, the complaint alleges that confidential client files of the three existing RRA cases against Epstein were shown to potential investors to induce them to invest, and that as a result the attorney-client privilege has been waived.

The claims sound in Florida RICO, fraud, abuse of process etc.

What to make of all this?

Since the alleged discovery abuses occurred in the context of pending civil suits, Epstein's complaint raises the obvious question why the

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presiding judge in those cases should not be dealing with the alleged lawyer misconduct?

Moreover, the allegations against Edwards all involve serving allegedly outrageous discovery, making outrageous statements in court hearings, or doing outrageous things in pleadings. That places the allegations of the complaint at odds with the traditional protections afforded attorneys in the performance of their legal duties.

I have no idea whether the allegations against Edwards are meritorious, or perhaps Epstein is trying to leverage the Rothstein revelations to assist him in defense of his pending suits.

Either way the case is likely not going very far, and Epstein probably will have to seek his remedies if any in the pending cases where the alleged discovery misconduct took place.

The more interesting jurisprudential question is what remedy, if any, could *investors* (as opposed to Epstein) have if they were induced to invest as a result of the lawyer activities detailed in the complaint?

When you step back, the entire Rothstein saga, with its many sad and pathetic twists, should cause the courts and policymakers to define a bit more clearly the extent to which lawyers should be afforded protection when they practice law -- which in the normal circumstance certainly makes sense -- as opposed to allegedly misusing and abusing the law and a Bar license in order to execute an incomprehensibly massive (not to mention illegal) moneymaking fraud.

Labels: [Bradley J. Edwards](#), [Michael J. Pike](#), [Robert D. Critton Jr.](#), [Russell S. Adler](#), [Scott Rothstein](#)

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March 29, 2010

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Jeffrey Epstein Sues Accused Ponzi Schemer Scott Rothstein For Misusing His Name

First Posted: 12-11-09 11:17 AM | Updated: 12-11-09 12:27 PM



It's hard to know who to root for when two disgraced Florida financiers duke it out in court.

CityFile reports that billionaire money manager Jeffrey Epstein, who served 13 months in jail for soliciting a teenage girl for prostitution, is taking aim at accused Ponzi schemer Scott Rothstein.

Earlier this year, state authorities charged Rothstein, a prominent Florida lawyer and powerful political fundraiser, with running a \$1.2 billion Ponzi scheme.

According to the suit, Rothstein and his law firm's partners used Epstein's name to lure investors into his alleged scheme. Essentially, the suit says, Rothstein's firm claimed to have secured a \$200 million settlement with Epstein, and used that amount to "pump" a fraudulent investment scheme.

The suit also argues that Rothstein's firm claimed to represent 52 women who claimed to have been sexually abused by Epstein. In fact, Rothstein's firm only represented three such women in cases the suit describes as "weak."

Is Epstein, he of the allegedly egg-shaped penis, just piling on Rothstein's misfortunes? Read the complaint for yourself (hat tip to *ABA Journal*).

Story continues below ↓

rothstein-complaint-1 -

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The Work

December 8, 2009 7:50 PM

Billionaire Slaps Scott Rothstein With Suit

Posted by Brian Baxter

The almost daily developments in the bizarre saga of disbarred Fort Lauderdale lawyer Scott Rothstein seem almost too outlandish to be true. Here's the latest.

On Monday, sibling publication the [Daily Business Review](#) reported that the federal government will have first dibs on Rothstein's seized property if he is convicted, noting that the fraud allegations against Rothstein have hit the \$1.6 billion mark.

Now, another notorious Floridian has entered the picture.

Billionaire money manager and convicted sex offender Jeffrey Epstein has filed suit against Rothstein, claiming that the disbarred lawyer touted a fictitious \$200 million sexual harassment settlement that Epstein was willing to pay as a guise to lure investors into his Ponzi scheme. Epstein, represented by Robert Critton, Jr., of West Palm Beach's [Burman, Critton, Luttier & Coleman](#), filed his civil suit in Palm Beach County Circuit Court late Monday.

According to the [36-page complaint](#), Epstein accuses Rothstein of "engaging in a pattern of racketeering that involved a staggering series of gravely serious obstructions of justice, actionable frauds, and . . . egregious civil litigation abuses" that damaged Epstein and others. The complaint also accuses Rothstein of forging federal court orders and opinions.

In an interview with The Am Law Daily, Critton lashed out at Rothstein for fraudulently claiming that his client had agreed to pay \$200 million to settle civil sexual harassment charges filed against Epstein by several women after the scandalous allegations against him [first came to light in 2005](#). (In June 2008 Epstein's [all-star legal team](#) negotiated a [plea to two prostitution charges](#) that infuriated Palm Beach's police chief, who had already [written a letter criticizing state prosecutors](#); Epstein was [released this July](#) after serving almost a year in prison.)

Three of the sexual harassment suits were filed by lawyers working for Rothstein. Critton says those same lawyers falsely claimed to represent many more women with potential claims against Epstein. The additional women never actually existed, Critton says, adding that they were merely introduced to entice investors to fund litigation against his client.

As a result, Critton says Epstein had to spend more money on his defense in those criminal cases, and his lawyers wound up engaging in frivolous discovery and depositions. The additional cost was between \$100,000 to \$200,000, Critton says, adding that the whole matter has only complicated efforts to resolve current cases pending against the billionaire.

"Instead of a defendant having a legitimate discussion with a plaintiff to resolve a case, [Rothstein's] out there pitching millions in dollars from these other cases he claims to have," he says. Critton adds that Rothstein's "abusive litigation tactics" included trying to depose "extraneous individuals" that would embarrass Epstein.

Those individuals include Bill Clinton, David Copperfield, and Donald Trump—all close friends of Epstein who traveled with the money manager on his private plane. (Rothstein sought access to flight records and other information that he could show to potential investors to boost his claim to a nine-figure settlement.)

Critton declined to comment on the damages Epstein is seeking from Rothstein over the alleged settlement claims, though he hinted that the amount will be at least \$100,000 and more than that if damages are trebled. Critton has yet to hear from lawyers for Rothstein on the civil suit and says he hasn't yet decided whether claims will be brought against other members of Rothstein's defunct firm, Rothstein Rosenfeldt Adler.

"I'm taking baby steps on this," says Critton, [no stranger to high-profile sex suits](#).

Rothstein's criminal lawyer, Marc Nurik, a former partner at RRA, was not immediately available for comment.

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BUSINESS INSIDER Law Review

Billionaire Sex Offender Sues Scott Rothstein \$200 Million Settlement Offer

Erin Geiger Smith | Dec. 10, 2009, 7:43 AM | 892 | 4

"Just when it might have seemed that alleged wrongdoing related to the spectacular downfall of Rothstein Rosenfeldt Adler could not become more bizarre, a billionaire convicted sex offender has filed a civil racketeering lawsuit against two onetime partners of the South Florida law firm."

Thus begins Martha Neil's article for the *ABA Journal* about jailed Florida now-former attorney Scott Rothstein, and really, there is no other way to begin.

According to the complaint, plaintiff Jeffrey Epstein is a defendant in three civil actions alleging sexual assault filed by Rothstein's former firm. The complaint alleges the RRA attorneys lied about the facts of Epstein's case to support their Ponzi scheme.

The suit says that Rothstein and other RRA lawyers said Epstein had offered a \$200 million settlement. Epstein said no such offer was ever made.



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The complaint alleged the defendants filed false court documents, improperly interco litigation strategies designed to aid their scheme, rather than what was in their client

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Dizzying Claims Against Disbarred Attorney

By IZZY KAPNICK

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WEST PALM BEACH (CN) - A Palm Beach billionaire convicted of soliciting sex from minors has sued alleged Ponzi scheme operator Scott Rothstein, a disbarred attorney, claiming Rothstein used the sexual indiscretions as a springboard to pursue frivolous molestation suits. Plaintiff Jeffrey Epstein, a wealthy money manager disgraced in an underage prostitution scandal, says Rothstein tried to capitalize on the conviction by encouraging clients to fabricate allegations of sexual assault.

Rothstein was arrested in November in connection with an alleged \$1.2 billion investment scam. He had been telling investors they could make huge profits by contributing to a fund that bought structured settlement receivables, FBI investigators say.

According to the FBI, Rothstein told the duped investors that his clients wanted their lawsuit settlement cash right away and were willing to sell him the right to receive the structured payments in exchange for a discounted lump sum.

But Rothstein was lying all the while, the FBI says. Investigators say Rothstein never organized the purchase of the receivables, and that many of the settlements he advertised were fake.

Rothstein went so far as to show investors bogus court documents to lure them into the scheme, investigators say.

Among the allegedly phony settlements was a \$200 million payout that Rothstein claimed Epstein had arranged for more than 50 victims of sexual assaults and molestation.

In his complaint in Palm Beach County Court, Epstein says that "settlement" was one of Rothstein's concoctions. Rothstein was simply trying to cash in on the publicity surrounding the solicitation investigation, Epstein says.

Epstein claims that Rothstein lined up a slew of frivolous sexual assault and molestation lawsuits for clients who Epstein says were willing sex workers.

Bradley Edwards, an attorney at Rothstein's firm and a defendant in Epstein's complaint, forwarded particularly reckless allegations, Epstein says.

"The evidence is really going to show [that] Epstein ... has, every single day of his life, made an attempt to sexually abuse children. We're not talking about five. We're not talking about 20. We're not talking about 400, which I believe is the number known to law enforcement. We're talking about thousands of children," Edwards allegedly said in a court proceeding cited in Epstein's complaint.

These assertions are absurd, Epstein says.

The Palm Beach Police Department's investigation of Epstein may complicate his case, however.

The police investigation alleges that in 2003, Epstein enlisted a 17-year-old girl to recruit high school classmates to visit him for "massages" at his Palm Beach mansion. Epstein paid the girls \$200 to \$300 per visit to strip down and massage him while he pleased himself. The lid was blown off when the youngest of the girls, then 14, told her parents about the escapades.

Epstein's recruiter and the girls have acknowledged that they knew what to expect, detectives say. According to the investigation, the 17-year-old explained to the girls what would happen in Epstein's massage room, according to the police report.

Epstein cut a deal with federal agents to plead guilty to procuring minors for prostitution.

When the scandal was publicized, hordes of young women came out of the woodwork accusing Epstein of sexual battery. Many of the resultant cases were dismissed, including that of transgendered model Maximilia Cordero.

Epstein claims that Rothstein's clients in the cases against him included a self-described prostitute who changed her story repeatedly.

In an early interview with FBI agents, cited in Epstein's complaint, the prostitute, who admitted to having frequently brought young women to Epstein's house for sex work, claimed, "Every girl that I brought to Jeffrey ... said they were fine with it. ... A lot of girls begged me to bring them back for the money, and as far as I know, we all had fun there."

But Epstein says that after Rothstein recruited her as a client in a sexual assault suit, the prostitute reversed her tone. "Once [the girls] were [at Epstein's house], they were scared out of their minds. They did it anyways, and some of them walked out and said, 'Don't ever do this to me again,'" the woman stated in a deposition.

Epstein demands damages from Rothstein for conspiracy and abuse of process.

His lead attorney is Robert Critton Jr. 

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