

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF FLORIDA**  
*Fort Lauderdale Division*  
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IN RE:

ROTHSTEIN ROSENFELDT ADLER, P.A.,

Debtor.

Case No. 09-34791-BKC-RBR

Chapter 11

**JEFFREY EPSTEIN'S MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS FROM TRUSTEE PURSUANT TO  
DOCUMENT PRODUCTION PROTOCOL ESTABLISHED BY DE #672**

JEFFREY EPSTEIN ("EPSTEIN"), by and through undersigned counsel, respectfully moves this Honorable Court pursuant to the provisions of Fed.R.Civ.37(a) (which is incorporated into bankruptcy practice by Fed.R.Bankr.P. 7037), for an Order compelling HERBERT STETTIN ("STETTIN"), the Chapter 11 Trustee for the Estate of ROTHSTEIN ROSENFELDT ADLER, P.A. ("RRA"), (a) to comply with the Document Production Protocol established by this Court at his request; (b) to produce documents pursuant to a Subpoena served upon him in a state court matter on April 17, 2010; and ( c ) where appropriate to furnish a Privilege Log. In support thereof, EPSTEIN would respectfully submit the following:

1. This Court, by virtue of the Order which established the Document Production Protocol (DE #672) has taken jurisdiction over all discovery sought of the Trustee. This Court generally has jurisdiction over such matters by virtue of 28 U.S.C. §§ 152 and 1334.

2. On May 6, 2010, STETTIN moved for expedited relief seeking a Protective Order with respect to discovery which had been served upon him by one group of creditors, and in doing

so requested approval of a proposed Document Production Protocol to be used across the board with respect to anticipated future document requests that he anticipated receiving from third parties (DE #617).

3. On May 18, 2010, this Court entered an “Order Granting Trustee’s Motion Seeking a Protective Order and Approving Proposed Document Production Protocol” (DE #672). This Order established the process for anyone wishing discovery from the Trustee. Its operation it not limited to discovery in the bankruptcy case. Moreover, in that Order, the Court set out the Document Production Protocol and, at paragraph 7, retained jurisdiction with respect to all matters arising from or related to the implementation or interpretation of said Order; i.e., all discovery sought from the Trustee, without any limitation on the forum.

4. EPSTEIN is currently a party Plaintiff to a lawsuit in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida, Case No. 50-2009 CA 040800XXXX MB AG. The action is entitled *Jeffrey Epstein, Plaintiff vs. Scott Rothstein, individually, Bradley J. Edwards, individually, and L.M., individually.*

5. On or about April 17, 2010, counsel for EPSTEIN in the state court had served a Subpoena *Duces Tecum* for Deposition - Documents Only, on STETTIN in his capacity as Trustee, in an attempt to obtain documents relevant to issues in the state court case. A paralegal from BERGER SINGERMAN P.A., counsel for the Trustee, wrote to one of the counsel involved in the state court indicating that the Trustee had retrieved approximately six-thousand (6,000) emails that might be responsive to the Subpoena described above. The paralegal, one LUIS TORRES

(“TORRES”), indicated that he anticipated finalizing review of the emails for attorney/client privilege information by May 28, 2010, and intended to produce the documents along with the Privilege Log by May 31, 2010 (Exhibit “A” attached - TORRES’ letter).

6. It did not happen.

7. In the meantime, on May 6, 2010, the Trustee had filed his Motion in this Court seeking to establish the Document Production Protocol and this Court entered its Order (DE #672 *supra*).

8. On the strength of the “Document Production Protocol” Trustee’s counsel now demanded that Movant enter into a Joint Motion for Entry of Stipulated Protective Order and a Protective Order - the forms established by the Order setting the Document Production Protocol. Movant’s counsel forwarded to TORRES, the paralegal, and CHARLES LICHTMAN, ESQ., the executed *Joint Ex Parte* Motion and the proposed Stipulated Protective Order. Counsel for the Trustee did not file them, nor have they ever produced the required information (notwithstanding that TORRES had written that the materials would be ready before the end of May 2010).

9. Production of these documents from the Trustee is critical to issues in the state court lawsuit. Without access to the emails in question, Movant will suffer unfair prejudice and will be unable to obtain information critical to his lawsuit. To date, the Trustee apparently claims privilege over all of these documents, but no Privilege Log has ever been provided. In addition, there is the potential that the “crime-fraud exemption” to the attorney/client privilege would ultimately apply rendering any claimed privilege, even one that is improperly claimed, to be moot.

WHEREFORE, Movant respectfully prays that this Court (a) enter the standard stipulated Protective Order so that Movant will be in compliance with the Document Production Protocol; and (b) order the Trustee to comply with the Subpoena originally served on April 17, 2010 - almost three (3) months ago.

Respectfully submitted,

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Fla. Bar No. 152175

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 14, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Ronald G. Neiwirth  
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