

Page 1

1 UNITED STATES BANKRUPTCY COURT
 2 SOUTHERN DISTRICT OF FLORIDA
 3
 4 IN RE: CASE NO. 09-34791-RBR
 5
 6 ROTHSTEIN ROSENFELDT ADLER, PA,
 7 Debtor.
 8 _____/

9 ECF # 6325, 6326, 6344, 6345,
 10 April 13, 2018

11
 12 The above-entitled cause came on for hearing
 13 before the Honorable RAYMOND B. RAY, one of the Judges in
 14 the UNITED STATES BANKRUPTCY COURT, in and for the
 15 SOUTHERN DISTRICT OF FLORIDA, at 299 E. Broward Blvd.,
 16 Fort Lauderdale, Broward County, Florida on April 13,
 17 2018, commencing at or about 1:30 p.m., and the following
 18 proceedings were had.
 19
 20
 21
 22
 23 Transcribed from a digital recording by:
 24 Cheryl L. Jenkins, RPR, RMR
 25

Page 2

1
 2 APPEARANCES:
 3
 4 SEARCY DENNY SCAROLA BARNHART & SHIPLEY, by
 5 JACK SCAROLA, Esquire
 6 On behalf of Bradley J. Edwards
 7
 8 EDWARDS POTTINGER, by
 9 BRADLEY J. EDWARDS, Esquire
 10 BRITTANY N. HENDERSON, Esquire
 11 On behalf of Farmer Jaffe
 12
 13 SCOTT LINK, Esquire
 14 and
 15 RICE PUGATCH ROBINSON STORFER & COHEN, by
 16 CHAD P. PUGATCH, Esquire
 17 On behalf of Jeffrey Epstein
 18
 19 CARLTON FIELDS, BY
 20 NIALL McLAUCHLAN, Esquire
 21 JOSEPH IANNO, Esquire
 22 On behalf of Fowler White
 23
 24 AKERMAN, LLP, by
 25 JOAN LEVIT, Esquire
 On behalf of Michael Goldberg

PAUL G. CASSELL, Esquire (via telephone)
 On behalf of LM, EW and Jane Doe

ALSO PRESENT

EDWARD BRISCO

ECRO - Electronic Court Reporting Operator

Page 3

1 ECRO: All rise.
 2 THE COURT: Good afternoon. Please be
 3 seated.
 4 MR. SCAROLA: Good afternoon.
 5 MR. EDWARDS: Good afternoon, your Honor.
 6 THE COURT: All right. Court calls the
 7 matter of Rothstein Rosenfeldt & Adler. May I have
 8 appearances for the record?
 9 MR. SCAROLA: Good afternoon, your Honor.
 10 My name -- excuse me.
 11 THE COURT: We have an antiquated sound
 12 system in this courtroom.
 13 MR. SCAROLA: And I have a booming voice,
 14 sir, so I don't think it will be a problem, but my name is
 15 Jack Scarola. I am counsel on behalf of Bradley Edwards.
 16 Mr. Edwards is here in a dual capacity. He has joined in
 17 the motion on behalf of his law firm, Farmer Jaffe, and is
 18 also representing Farmer Jaffe. With us also at counsel
 19 table is Brittany Henderson, and we are the moving parties
 20 in this matter, your Honor.
 21 THE COURT: All right.
 22 MR. SCAROLA: And I'm just reminded by the
 23 sign that I'm supposed to -- I don't need to spell my
 24 first and last name.
 25 Okay. Thank you.

Page 4

1 THE COURT: Step aside so the other parties
 2 can come up to the mic.
 3 MR. SCAROLA: Yes, excuse me.
 4 MR. EDWARDS: I was just introduced by
 5 Mr. Scarola. Brad Edwards on behalf of Farmer Jaffe.
 6 MR. McLAUCHLAN: Good afternoon, your Honor.
 7 Niall McLauchlan on behalf of Fowler White. I'm here with
 8 my partner, Joseph Ianno, at the table, and Ed Brisco, who
 9 is a managing partner of Fowler White. He's here because
 10 of his obvious concern about the allegations in the
 11 motion.
 12 MR. PUGATCH: Good afternoon, your Honor.
 13 Chad Pugatch, P-u-g-a-t-c-h, here as co-counsel for
 14 Jeffrey Epstein, along with Mr. Scott Link, who will
 15 introduce himself.
 16 MR. LINK: Good morning, Judge. Do you need
 17 me to spell -- L-i-n-k, first name is Scott, S-c-o-t-t.
 18 Thank you, ma'am. Thank you, Judge.
 19 MS. LEVIT: Good afternoon, your Honor.
 20 Joan Levit for the liquidating trustee, Michael Goldberg.
 21 We are not participating in this
 22 disagreement. However, we just wanted -- the liquidating
 23 trustee just wanted to state on the record that there is
 24 no longer a bankruptcy case, as your Honor is aware. The
 25 case has been confirmed, and there is a liquidating trust,

Page 5

1 which we are resolving, and that this Court is aware that
2 its authority is based on what powers were granted in the
3 liquidating plan.
4 So, we're just monitoring the hearing, and
5 unless your Honor needs us, we're going to be quiet for
6 the rest of the case.
7 THE COURT: Thank you. Thank you.
8 All right. We have three matters on the
9 Court's calendar today, motion for order to show cause and
10 the responses thereto, joinder, filed by interested party
11 Bradley Edwards, motion to intervene, motion for joinder.
12 Turning to the motion to intervene, is
13 Peter Shapiro present in the courtroom?
14 MR. EDWARDS: Your Honor, I was informed
15 that Mr. Paul Cassell was to call into this hearing on
16 behalf of L.M., E.W. and S.R.
17 THE COURT: I don't ---
18 MR. EDWARDS: I don't know what arrangements
19 he made.
20 THE COURT: No such arrangements were made.
21 So, we'll just -- on the motion to intervene, that will be
22 continued. It won't be heard.
23 MR. EDWARDS: Thank you, your Honor.
24 ECRO: (Inaudible) -- an e-mail. He was
25 right. Let's call CourtCall.

Page 6

1 THE CLERK: Okay.
2 ECRO: Do you want me to print you a
3 calendar that shows his name?
4 THE COURT: Can you print it here?
5 ECRO: I can.
6 (Thereupon, CourtCall was connected.)
7 RECORDING: Thank you for making a
8 telephonic court appearance. Your CourtCall or Court
9 Conference operator will be with you momentarily.
10 OPERATOR: Thank you for standing by. May I
11 have the name of your Court, please?
12 ECRO: U.S. Bankruptcy Court,
13 Judge Raymond B. Ray.
14 OPERATOR: Thank you. One moment and your
15 operator will be right with you.
16 ECRO: Thank you.
17 OPERATOR: Good afternoon. My name is
18 Karina with CourtCall. I'll be assisting you today.
19 ECRO: Thank you. We are ready for the
20 call.
21 OPERATOR: Thank you, ma'am. I'll go ahead
22 and join counsel through.
23 THE COURT: Mr. Cassell, are you on the
24 phone?
25 MR. CASSELL: Yes. Hi, this is

Page 7

1 Paul Cassell.
2 THE COURT: Spell your last name for the
3 court reporter.
4 MR. CASSELL: Cassell is C-a-s-s-e-l-l.
5 THE COURT: And who are you representing in
6 this matter?
7 MR. CASSELL: I represent putative
8 intervenors L.M., E.W. and Jane Doe, who have a pending
9 motion for leave to intervene.
10 THE COURT: All right. Let me ask, is there
11 any opposition to the motion to intervene?
12 MR. SCAROLA: Not on behalf of the moving
13 party, your Honor.
14 MR. McLAUCHLAN: Judge, we do have some
15 opposition.
16 It appears that E.W. and Jane Doe weren't
17 even clients, weren't even part of the litigation for
18 which the subpoena was issued. So I think the motion to
19 intervene as to those two parties should be denied. The
20 only one, even according to the victim's reply, they say
21 the client refers to L.M. So that's only one of the three
22 putative intervenors. For that reason I think the motion
23 should be denied as to E.W. and Jane Doe.
24 MR. PUGATCH: Your Honor, on behalf of
25 Mr. Epstein, we would join in that objection, that limited

Page 8

1 objection.
2 THE COURT: Mr. Cassell.
3 MR. CASSELL: Yes. L.M., it appears, has
4 not been contested. With regard to E.W. and Jane Doe, the
5 e-mails in question pertain to all three victims.
6 Therefore, all three victims should be allowed to
7 intervene.
8 Mr. Epstein had an opportunity to file a
9 written response where we could have provided a reply in
10 more detail. He did not do so. Fowler White filed a
11 response, and only dropped a footnote raising a different
12 kind of argument in opposition. So these are new
13 arguments that are being advanced.
14 I think it's quite clear that the victims
15 have significant and compelling interest at stake, and
16 they should be allowed to intervene.
17 THE COURT: Is there any dispute that the
18 e-mails in question refer to L.M. and E.W.?
19 MR. SCAROLA: Your Honor, our position is
20 that the e-mails refer to all three of the putative
21 intervenors.
22 MR. McLAUCHLAN: And, Judge, just for the
23 record, Fowler White, we haven't seen the CD, so we don't
24 know who is on there, but I do note that Mr. Cassell is
25 technically wrong, because Mr. Epstein, in his response,

Page 9

1 specifically said on Page 3 of his response, that two of
2 the three intervenors, E.W. and Jane Doe, were not parties
3 during the litigation and the 2010 order.
4 MR. LINK: Your Honor, may I be heard?
5 THE COURT: Yes.
6 MR. LINK: (Inaudible) -- objection. The
7 three -- oh, sorry.
8 Those three intervenors who are seeking to
9 intervene in this Court have been allowed to intervene
10 without objection in the state court proceeding, so that
11 they can protect their attorney/client privileges if such
12 exist.
13 So as far as their being able to protect the
14 e-mails, and whether they're going to be admissible, and
15 whether they're confidential, the state court judge has
16 that issue, and they are participating in that proceeding,
17 Judge.
18 THE COURT: So I'll grant that motion.
19 Mr. Cassell, see to the order.
20 MR. CASSELL: Thank you.
21 THE COURT: All right. Let's describe,
22 before we get started, just what we're talking about. Is
23 it one disk, two disks? Is it boxes of goods?
24 MR. SCAROLA: Your Honor, the ---
25 THE COURT: I just want the record to be

Page 10

1 clear.
2 MR. SCAROLA: Yes, sir.
3 The origin of the information in dispute, we
4 understand is a single compact disk that contains a very
5 large number of e-mails.
6 THE COURT: And is that the disk that was
7 referred to as -- it was in one of the pleadings, was
8 found in a box?
9 MR. SCAROLA: That's what we have been told,
10 your Honor. We don't have, obviously, direct information
11 of that, but we have been informed that that disk was
12 included in one of 36 boxes that were reviewed by the law
13 firm of Link & Sartory, obtained from the Fowler White law
14 firm, who were predecessor counsel to Mr. Epstein, and
15 were the direct object of this Court's order prohibiting
16 retention of that specific information.
17 MR. LINK: So the record is clear, it's Link
18 & Rockenbach.
19 MR. SCAROLA: Link & Rockenbach, not Link &
20 Sartory, excuse me, old firm name.
21 MR. McLAUCHLAN: Judge, yes, the motion
22 alleges that there was a single -- I'm sorry?
23 ECRO: If you're going to speak from
24 there ---
25 MR. McLAUCHLAN: Judge, the motion refers to

Page 11

1 the single CD that was supposedly in Fowler White's files,
2 that's correct. There was originally, my understanding
3 is, two CDs that were delivered to Fowler White for
4 printing. Those documents were then put onto one CD, with
5 Bates numbers, and the documents were printed. So we now
6 have a single CD, that's correct.
7 THE COURT: And is the information contained
8 on this disputed CD anywhere else in the state court file?
9 MR. McLAUCHLAN: I'm not aware of the state
10 court file.
11 MR. SCAROLA: Your Honor, the information
12 contained on the compact disk included both privileged and
13 non-privileged information.
14 THE COURT: But it wasn't subject to
15 disclosure, so it didn't go to the special master and
16 privilege log?
17 MR. SCAROLA: If I could, perhaps it would
18 be helpful if I briefly trace the history for the Court.
19 THE COURT: Okay.
20 MR. SCAROLA: Your Honor may recall that the
21 law firm of Rothstein Rosenfeldt & Adler imploded as a
22 consequence of Scott Rothstein's involvement in a massive
23 Ponzi scheme.
24 That firm became the subject of bankruptcy
25 proceedings. A special master was appointed. The special

Page 12

1 master took control of the records of the law firm,
2 including the law firm's electronic records. At the time
3 that that occurred, litigation was pending between
4 Mr. Epstein and Bradley Edwards.
5 Mr. Epstein issued a subpoena in that state
6 court proceeding seeking information from the electronic
7 files of the bankrupt law firm, and the determination was
8 made that in order to deal with privilege assertions of
9 all of the e-mail records of the law firm, that, over
10 Mr. Edwards' objection, and the objection of the law firm,
11 the electronic documents were to be turned over to Fowler
12 White so that Fowler White could print out a hard copy of
13 Bates stamped, numbered e-mails extracted from those
14 multiple compact disks.
15 This Court entered an order on November 30,
16 2010, recognizing the fact that Fowler White was at that
17 time representing Mr. Epstein, an adversary of Mr. Edwards
18 in the state court proceeding, and that order expressly
19 prohibited Fowler White from retaining any copy,
20 electronic or otherwise, of the information that was
21 turned over to them solely for purposes of performing the
22 administrative task of Bates stamping and printing out
23 copies, one to be delivered to Judge Carney, serving as
24 Special Master on behalf of the bankruptcy trustee, and a
25 second copy to go to the Farmer Jaffe law firm, so that a

Page 13

1 privilege log could be prepared. All of that related to
2 the subpoena that was issued in the state court
3 proceedings.
4 Your Honor's order reads, in relevant part,
5 Fowler White will not retain any copies of the documents
6 contained on the disks provided to it, nor shall any
7 images or copies of said documents be retained in the
8 memory of Fowler White's copiers.
9 Should it be determined that Fowler White or
10 Epstein retained images or copies of the subject documents
11 on its computer or otherwise, the Court retains
12 jurisdiction to award sanctions in favor of Farmer,
13 Brad Edwards, or his client. That order was entered in
14 November of 2010.
15 As far as any of the interested, protected
16 parties, that is Farmer Jaffe, Brad Edwards and his
17 clients were concerned, that order was complied with.
18 We did not learn otherwise until on the eve
19 of the trial of the circuit court case that has been
20 pending since before 2010, just a matter of a few weeks
21 ago. A supplemental exhibit list was filed by the law
22 firm of Link & Rockenbach listing documents on the
23 privilege log that was constructed by the Farmer Jaffe law
24 firm in accordance with this Court's order, listing
25 documents and identifying them by the same Bates stamp

Page 14

1 numbers that had been placed on those documents by Fowler
2 White.
3 THE COURT: And submitted to the Special
4 Master --
5 MR. SCAROLA: And sub ---
6 THE COURT: -- and to Farmer Jaffe.
7 MR. SCAROLA: That's correct, sir. One copy
8 went to Farmer Jaffe, one copy went to the Special Master.
9 The ---
10 THE COURT: And apparently one copy was
11 retained.
12 MR. SCAROLA: The electronic records were
13 supposed to have been destroyed. All that was to remain
14 were the hard copies, with the electronic disks having
15 been returned to Farmer Jaffe.
16 So, there should have been no retention of
17 anything by Fowler White. Mr. Link, in representations to
18 the state trial court, after issues were raised with
19 regard to how he came to be in possession of documents
20 that he clearly was not supposed to have, represented to
21 the trial court that he had obtained the disk containing
22 the information that was listed as potential trial
23 exhibits from the Fowler White law firm inside one of
24 36 boxes that he has told the Court he recently obtained
25 possession of from Fowler White. We have no direct

Page 15

1 knowledge with regard to those matters, but that's what
2 the representation is that has been made.
3 One thing that is absolutely clear, no one,
4 other than Judge Carney and Farmer Jaffe is supposed to
5 have any copy of that privileged material. It was
6 specifically prohibited from being retained by the Fowler
7 White law firm. It contains both attorney work product
8 and attorney/client privileged information, and we are
9 here today to ask your Honor to do five things.
10 We would like a rule to show cause issued so
11 that a determination can be made as to the full
12 circumstances under which this Court's clear and
13 unambiguous order has most obviously been violated.
14 We would like a direction from this Court
15 that Fowler White, Jeffrey Epstein, and Link & Rockenbach
16 will submit to deposition so that sworn testimony with
17 regard to the clear violation of the Court's order can be
18 taken.
19 We would like a final hearing scheduled on
20 the order to show cause.
21 We would like this Court, in the interim, to
22 prohibit any further dissemination of any information
23 derived from that improperly possessed privileged
24 information, and we would like Link & Rockenbach directed
25 to withdraw all filings that have been made in any court

Page 16

1 referencing the contents of these documents.
2 So those are the five things that we would
3 hope to accomplish.
4 I recognize the fact that at least on the
5 Court's calendar, we were informed this was to be a
6 10-minute hearing. We thank your Honor for allowing us
7 any time on short notice, and we need some guidance from
8 your Honor as to the extent to which you want us to get
9 into any further detail beyond that which I have presented
10 to the Court, and we're fully prepared to do that, but
11 those are the five things we hope to see accomplished, and
12 we hope to see accomplished expeditiously, issuance of the
13 order to show cause, a direction with regard to
14 pre-hearing discovery, the scheduling of a final hearing,
15 a prohibition against further dissemination in violation
16 of this Court's order, and the withdrawal of all
17 references in previously filed documents to this
18 unlawfully possessed information.
19 THE COURT: All right.
20 MR. SCAROLA: And I'm happy to answer any
21 other questions your Honor may have. I hope I have,
22 although I've probably taken more time than you've wanted
23 me to, responded to the inquiry the Court had.
24 THE COURT: No, so Farmer Jaffe and
25 Bradley Edwards want to take the deposition of Fowler

Page 17

1 White, Epstein and Link?
2 MR. SCAROLA: That's correct, your Honor.
3 MR. LINK: Yes, your Honor.
4 MR. SCAROLA: And with regard -- with regard
5 to Fowler White, it would be the corporate representative
6 with the most knowledge with regard to these matters, the
7 same with regard to Link & Rockenbach, and as far as
8 Jeffrey Epstein is concerned, obviously he was personally
9 prohibited by the express language of the Court's order
10 from possessing or accessing any of this information, and
11 we would certainly want to take Mr. Epstein's deposition.
12 While representations have been made with
13 regard to the extent that Mr. Epstein has been in
14 possession of, or had access to this privileged
15 information, the record is completely devoid of any sworn
16 representation by Mr. Epstein, and clearly that is
17 essential in terms of this Court fashioning, or first of
18 all determining who is responsible for these very serious
19 violations, and in fashioning an appropriate response.
20 Thank you, sir.
21 THE COURT: All right. Response?
22 MR. LINK: Thank you.
23 MR. CASSELL: This is Mr. Cassell, and the
24 intervenors join in all those motions as well.
25 THE COURT: Thank you.

Page 18

1 MR. LINK: Judge, if I can just respond
2 briefly on behalf of Mr. Epstein.
3 First, notwithstanding what Mr. Scarola
4 said, there is no factual issue. There has never been an
5 allegation that Mr. Epstein has ever had the disk. He's
6 never said it, Fowler White has never said it. He never
7 had the disk.
8 THE COURT: Well, they're going to ask him
9 that question.
10 MR. LINK: I can make that representation to
11 the Court. I can provide a sworn affidavit that he's
12 never had it. He's never had the disk, plain and simple.
13 So, if that's what the Court is interested
14 in, I can represent that to this Court, and I believe
15 Fowler White will stipulate to that, and I don't believe
16 Mr. Scarola has any information or evidence that would
17 suggest Mr. Epstein ever held this disk. So that's point
18 one.
19 Two ---
20 MR. SCAROLA: May I respond?
21 MR. LINK: I did not interrupt you,
22 Mr. Scarola.
23 MR. SCAROLA: I'm sorry. It's not our
24 contention Mr. Epstein has the disk, your Honor.
25 It is our contention that Mr. Epstein has

Page 19

1 had access to the privileged information contained with-on
2 the disk -- on the disk, and that simply is a distinction
3 without a difference. Whether he received printed copies,
4 whether he received information without getting printed
5 copies really makes no difference. The point of
6 your Honor's order was to prohibit access to privileged
7 information.
8 And I'm sorry to have interrupted, but I
9 think it's important to clarify that point.
10 THE COURT: Proceed, Mr. Link.
11 MR. LINK: Thank you, Judge.
12 So we now all understand that Mr. Epstein
13 never had the disk.
14 The only information Mr. Epstein ever
15 received was from my law firm when I provided him select
16 e-mails when we reviewed the disk, my law firm, in 2018.
17 So Mr. Epstein has not had one piece of
18 paper that they're claiming he shouldn't have, and I want
19 to make sure the Court understands what this disk is.
20 This is not a disk of privileged information. It's a disk
21 of 27,000 pages of which they claim some of them are
22 privileged. They submitted a privilege log, Mr. Scarola
23 said it was for this Court. It wasn't. The privilege log
24 is in Judge Hafele's court, in the 15th Judicial Circuit
25 in Palm Beach County.

Page 20

1 Judge Hafele had ---
2 THE COURT: Filled with these 27,000 pages?
3 MR. LINK: Pardon me?
4 THE COURT: And that privilege list deals
5 with these 27,000 pages?
6 MR. LINK: It does, sir, and Judge Hafele
7 has before him, as he should, since the privilege list,
8 and the privileged documents, if they are privileged, are
9 going to be presented to him hopefully in camera, that's
10 the motion we have filed. I've asked for it in camera.
11 Mr. Scarola has asked for it in camera in front of the
12 state court judge.
13 Why? Because the only thing that your Honor
14 was involved with related to the cancellation of a
15 hearing, and an agreed order, and I'm going to let Fowler
16 White talk about Fowler White's issues from 2010, but I
17 want to be very clear, so there is no mistake, I never had
18 the disk, my law firm, Link & Rockenbach, until 2018.
19 When we received the disk, which was part of
20 a box delivered by Fowler White, we looked at it. It was
21 sequentially numbered from 1 through 27,000. We looked at
22 about 5,000 of those e-mails, Judge, before we were
23 notified that there was a problem with our having the
24 disk, and then we stopped looking.
25 Of the 5,000 we looked at, your Honor, the

1 vast majority of them had to do with things like, what are
2 you going to do Friday night? Are you going to this
3 concert at the Broward Civic Center? Are you going down
4 to the Marlins game? Where should we go for lunch today?

5 There were 47 documents, 47 that I listed on
6 a supplemental exhibit list and put those in front of
7 Judge Hafele. Those documents are now sealed, the disk is
8 sealed pursuant to Judge Hafele's order. I have had my
9 client and his general counsel remove all reference to the
10 documents that I've e-mailed to them. I have wiped my
11 computers clean of all of the documents. This issue is
12 sitting before Judge Hafele.

13 Mr. Scarola and Mr. Edwards asked the
14 appellate court, we have two appeals pending in the
15 4th DCA, one a writ of mandamus, and one a petition for
16 cert. They asked the appellate court to strike every
17 reference to -- generally that we've made to these
18 documents. Without even requiring us to respond, the
19 appellate court denied their motion. They've asked the
20 appellate court to do what they're asking you to do.

21 And with all due respect, I'm not sure how
22 this Court can tell the 4th DCA what to do with its
23 pleadings, but -- I honestly don't know how that would
24 work.

25 So, Judge what I want to make sure is clear

1 as it relates to Mr. Epstein is this, that this Court
2 understands, he's never had the disk, never. He has never
3 had any of the documents, the 47 that they claim are
4 privileged, that no one has looked at, no in camera yet,
5 we're working on that, I sent him those materials, not
6 Fowler White. He did not get them in 2010. He received
7 them in 2018, and he no longer has them.

8 So, every single thing they're asking for
9 has happened by agreement. We did an agreed order to seal
10 the disk. We did an agreed order to take the disk that we
11 had from Fowler White and it's in a sealed envelope.
12 We've taken that disk and put it with the Clerk of the
13 Court in state court. We have taken all of the exhibits,
14 sealed them, numbered them, pursuant to Judge Hafele's
15 order, and placed them in the Clerk's file. There has
16 been no further dissemination.

17 Until Judge Hafele removes the seal, if he
18 does, those documents are going nowhere. The e-mails are
19 going nowhere. The exhibits are going nowhere. Nobody
20 has them.

21 So, what is the one issue that I think is
22 outstanding for this Court? I think there is only one
23 issue, and I don't know, your Honor, that any discovery
24 from my firm can tell you, or from Mr. Epstein can tell
25 where the disk came from that ended up in Fowler White's

1 box. Only Fowler White can answer that question, if it
2 can be answered. I don't know that they can tell you. It
3 was 2010. Maybe somebody will be able to figure that out
4 and they can address that, but the only issue, the only
5 fact that we all don't know is, why is that disk in a box
6 at Fowler White?

7 Was it inadvertently kept? Was it given to
8 them by the Special Master? I have no idea. I wasn't
9 around here in 2010 doing this work, but I know this,
10 without any hesitation, the 47 e-mails that are sealed and
11 waiting for Judge Hafele to look at are not being
12 disseminated anywhere. The disk that they're concerned
13 about is sealed. There are no copies. It's not going
14 anywhere. The appellate court has told them, no, we're
15 not striking references to it, and they've asked
16 Judge Hafele to do the same thing. He hasn't ruled on it.

17 So, to ask this Court to instruct
18 Judge Hafele what to do in his Chambers, and the 4th DCA
19 what to do in their Chambers, I don't think makes sense,
20 but I do think your Honor has the jurisdiction to look at
21 your order and determine if the simple retention by Fowler
22 White somehow is a violation of that order, and what's the
23 consequence, if any.

24 But to ask my law firm where it got the
25 disk, when they know where we get the disk, I've

1 represented to Mr. Scarola. Mr. Scarola told Judge Hafele
2 he accepted my representation. Maybe he's changed his
3 mind, and he thinks I've teleported back to 2010, but we
4 did not have the disk, your Honor. We've submitted an
5 affidavit, we did not receive the disk until 2018.

6 So what information through discovery I
7 could provide, or my client could provide, who they've
8 admitted didn't have the disk, is beyond me, Judge.

9 THE COURT: Thank you.

10 MR. LINK: Thank you.

11 MR. McLACHLAN: Thank you, Judge.

12 Niall McLachlan for Fowler White.

13 A couple of just points of clarification
14 from Mr. Scarola's presentation, and I think it's -- one
15 of them is probably very obvious to the Court.
16 Mr. Scarola suggested that upon the bankruptcy the Special
17 Master took possession of all of the records of Rothstein.
18 Of course what he meant by that was the bankruptcy
19 trustee.

20 MR. SCAROLA: Yes, I'm sorry, the Special
21 Master had them as an agent of the bankruptcy trustee.

22 THE COURT: Well, the chain of pleadings in
23 the Rothstein main case starts with Docket Entry 617, 672,
24 807, 888, 1068, 1120 and 1194, which is the order .

25 MR. McLACHLAN: That's correct, Judge, and

1 so here is the way it came about, there was litigation
2 pending in the state circuit court in Palm Beach County.
3 Mr. Epstein filed a subpoena from the state court to get
4 copies of the Rothstein records.

5 THE COURT: From Judge Stettin?

6 MR. McLAUCHLAN: No, they filed it -- yes,
7 from Judge Stettin as the trustee, that's correct.

8 THE COURT: The trustee.

9 MR. McLACHLAN: Yes, that's correct.

10 There was a dispute about how that would be
11 done. That's when those orders started to be entered. I
12 think the first one is probably the subpoena, and then the
13 orders, which ended up with the order that we're talking
14 about today.

15 Another point of clarification, Mr. Scarola
16 says that the order was entered over Farmer Jaffe's
17 objection. He may have had some -- the law firm may have
18 had some concerns, but it's very clear it's an agreed
19 order. I don't know that that makes a lot of difference
20 to the analysis, but I just want to be very clear, that
21 was an agreed order, that's at 1194.

22 So, that's why the state court is so
23 involved here, because it was a subpoena from that court.
24 That court was ruling on the objections. The only
25 involvement of this Court was you set the protocol by

1 by Fowler White, I'm going to return it to Fowler White,
2 and someone at the firm opened it and said, oh, this is
3 Epstein, and just threw it in the box.

4 The other possibility is that Farmer Jaffe,
5 when they printed five boxes of allegedly non-privileged
6 documents and sent them back to us, one of their
7 paralegals may have dropped the box (sic) in the file.

8 What's very, very clear is that from
9 whenever it was received, in 2010, '11, maybe '12, through
10 March of 2018, no one made any reference to the CD, the
11 privileged materials, no one tried to use the CD. It sort
12 of defies belief that Fowler White would have some sort of
13 conspiracy to get a CD, according to the motion at least,
14 to have retained a CD, have just thrown it in the box and
15 then done nothing with it, of course, for eight years, and
16 then all of a sudden when we turn over 36 bankers boxes to
17 the new lawyer, when the client asks for his files, which
18 he was entitled to, they asked, just send all the boxes,
19 and that's what we did.

20 Now, if the disk somehow got back into our
21 file, which apparently it did, we don't know how, assuming
22 it is the disk, but I have no reason to controvert that at
23 this point, it's clear now that we don't have the disk.
24 If it was in our files, we turned over 36 boxes, which
25 included the disk, according to the affidavits filed.

1 which the documents would be produced by the trustee, and
2 then you entered the order, 1194, that's at issue here
3 today, and that order said Fowler White shall not retain
4 copies. We didn't, we sent them all to Farmer Jaffe in
5 seven banker's boxes on November 10, 2010, and that e-mail
6 is attached to our response.

7 We sent a CD to Farmer Jaffe. We also sent
8 a CD with the Bates numbers to Special Master Carney, who
9 was to review the documents and go over the privilege log.

10 When your Honor indicated -- Mr. Scarola
11 indicated that one copy went to Farmer Jaffe, one copy
12 went to Special Master Carney, and your Honor stated, and
13 one copy was retained. We don't know that. We don't know
14 how the CD was in our files.

15 What's very possible, because our records
16 indicate we didn't keep it. Our records indicate -- well,
17 I told you, that they went to Farmer Jaffe and to Special
18 Master Carney. We have no idea. What's quite possible,
19 and the only way we could ever determine this would be to
20 get access to the CD and have it evaluated by an IT
21 specialist, which I don't think will be necessary for the
22 reasons I'll discuss in a minute. We think it's quite
23 possible either that Special Master Carney, when he
24 finished his work on the case a couple of years later,
25 said, oh, there is a CD, here is a CD that was sent to me

1 Okay. So, the facts as they exist now don't
2 justify sanctions, and they don't justify discovery for
3 the following reasons: I've already indicated what our
4 investigation shows happened with the disks, and the
5 e-mails are attached to our response.

6 It's not entirely clear, and of course for a
7 sanctions motion the order needs to be completely
8 unambiguous, it's not entirely clear to me when I read
9 that order that it's -- it certainly doesn't direct us
10 what to do with the CD. It says you don't retain copies,
11 all the copies were sent to Farmer Jaffe. We don't retain
12 images on our copy machine, clearly didn't do that.

13 If we later obtained a CD back, whether
14 that's -- whether that's in violation of the order, I'm
15 not sure. I don't think the order is that particularly
16 clear, but that's not really the main point as to our
17 response.

18 The movants are asking for a finding of
19 civil contempt, criminal contempt, and extensive
20 discovery.

21 Civil concept -- as your Honor probably
22 knows, there are two sources of contempt powers, one is
23 the Court's inherent power to enforce its orders. The
24 other is, where applicable, Section 105(a) of the Code,
25 where necessary to -- necessary and appropriate to enforce

1 provisions of Title 11.

2 Courts have held, and we've cited them in
3 our motion, that Bankruptcy Courts don't have the inherent
4 power to find criminal contempt.

5 Now based on the facts that I just laid out,
6 I don't think there could ever be a basis for it, but this
7 also gets to the discovery point, and even though the
8 11th Circuit in In Re: McClean, they affirm a finding of
9 punitive damages, which are by definition criminal,
10 because it's punishment, as opposed to purely compensatory
11 damages, they did so specifically under Section 105(a),
12 and that Court actually said the powers -- the court's
13 power to find contempt comes under 105(a).

14 I think that was possibly a little
15 over-broad, because other courts have found inherent power
16 to enforce courts' orders, but what's very clear here is
17 that 105(a) can have no application in this case. The
18 movants are not seeking to enforce any provision or rights
19 under Title 11. All of the cases that I found where
20 they're talking about putative sanctions, they're all for
21 violations of the automatic stay, willful violations, for
22 violations of discharge orders, as in In Re: McClean.
23 So, there is that issue.

24 Now, civil contempt, there are two purposes.
25 One, purely compensatory, a flat amount is by definition

1 order. That is by definition in the In Re: McClean case,
2 and countless other 11th Circuit cases, and lower court
3 cases, that's seeking criminal contempt sanctions, which
4 I've already discussed I don't believe are before the
5 Court.

6 So, I don't believe, Fowler White does not
7 believe that discovery is appropriate here. If your Honor
8 finds there is some limited discovery, we've cited the
9 pertinent 11th Circuit cases, and I noticed Mr. Scarola
10 didn't ask for access to Fowler White's computer records,
11 but I want to be very clear, there is no basis for that
12 under 11th Circuit precedent, we've cited in our case, so
13 I don't want, if your Honor says the motion is granted, I
14 don't want Mr. Scarola to say, oh, well, then we get
15 access to Fowler White's computer records.

16 In order to justify that, you would have to
17 -- they would have to show that they've served discovery
18 on Fowler White, and that they believe Fowler White is
19 destroying the evidence, or hasn't produced evidence.
20 We're certainly nowhere near that point yet.

21 Which gets us to another issue on the
22 requested discovery, if your Honor is inclined to grant
23 any, and that is discovery should be in the normal course,
24 send out a request for production, there is an opportunity
25 to respond, object where necessary, and have the Court

1 punitive, and that's criminal contempt. Civil contempt,
2 it only deals with future conduct, not anything that's
3 happened in the past, and what it says is, there are two
4 purposes, to coerce compliance with the order that was
5 allegedly violated. Well, you've heard we sent 36 boxes
6 to Epstein, Epstein's counsel. We don't have the boxes.
7 We don't have a disk.

8 The other is to award fees that were
9 incurred to obtain compliance. There is compliance. Even
10 if there was a violation at some point when we received
11 the disk back, there is no question there is compliance at
12 this point.

13 There is also -- you can get fees for
14 damages as a result, but they haven't proven any damages.
15 There is no damages alleged here. Their motion is
16 interestingly devoid of any allegation of compensatory
17 damages. What they say is they need discovery to
18 determine the amount of their damages, which is kind of a
19 remarkable proposition. If they've been damaged, they
20 know it. They don't need us to prove their damages. I've
21 never heard of that sort of thing in a discovery
22 procedure.

23 The other reason for contempt is they say we
24 want to discover the extent of the complicity, and the
25 appropriate punishment for a violation of this Court's

1 rule on objections. There shouldn't just be a carte
2 blanche order saying they get to depose people -- everyone
3 in the possible chain of custody at Fowler White, everyone
4 in the possible chain of custody of Mr. Link's firm, and
5 if your Honor finds there needs to be discovery, either
6 for civil contempt, or if your Honor determines that you
7 can rule on criminal contempt matters, or consider
8 criminal contempt matters, the party that really needs
9 discovery is Fowler White, and here is why: First, if
10 Farmer Jaffe is claiming they've suffered damages, we
11 certainly need discovery about that. Second, we need to
12 look at the CD, the offending CD, we need to have it
13 analyzed by an independent IT specialist, because we want
14 to see if we can determine from that the chain of custody
15 of that CD.

16 If the CD shows that the documents were at
17 any time opened by someone at Farmer Jaffe's firm, that
18 means we got the CD back from them at some point after the
19 production. If the CD shows that the documents were
20 opened at any point by Special Master Carney, that would
21 show that we got the CD back from Special Master Carney
22 sometime after the production.

23 So, I think it's -- there are a lot of
24 issues here, Judge. I think at this point, given that
25 Fowler White is undoubtedly in compliance, if we were ever

1 out of compliance, we are now in compliance with the
2 order, so we do not believe that there is any basis for
3 sanctions or for discovery, and we respectfully request
4 that the motion just be denied, and we can go back to the
5 circuit court and the judge can deal with the privilege
6 issues there.

7 Thank you, Judge.

8 THE COURT: Mr. Pugatch.

9 MR. PUGATCH: Your Honor, if I may on behalf
10 of Mr. Epstein, we kind of went in reverse order, because
11 Mr. Link got up to address the factual issues that were
12 raised by Mr. Scarola, but I wanted to point out our legal
13 position on behalf of Mr. Epstein, which is actually very
14 simple.

15 This hearing is to establish whether there
16 is a basis to issue an order to show cause. All the other
17 things that flow from what Mr. Scarola asked would only
18 come after the Court determines that there is a basis to
19 issue an order to show cause.

20 As to Mr. Epstein, and I'm speaking only on
21 behalf of Mr. Epstein, you've heard nothing today that
22 would indicate that they've met their burden of a prima
23 facie case.

24 THE COURT: Well, but they want to take his
25 deposition and ask him under oath, did you see the disk?

1 Did you ever see the disk? His answer is going to be very
2 simple, no.

3 MR. PUGATCH: I understand that, Judge, but
4 you've already seen that in the form of the
5 representations of counsel, and an affidavit has been
6 offered.

7 The issue of an order to show cause only
8 comes after they've met their prima facie case, and
9 they're not standing here telling you -- in fact, they've
10 admitted they agree that Mr. Epstein never had the disk.

11 So, if Mr. Epstein's possession of any of
12 these materials only came through Mr. Link and his firm in
13 2018, that's a separate and distinct issue from the issue
14 that they've raised in terms of compliance with the Court
15 order. They've raised nothing to establish a prima facie
16 case that Mr. Epstein violated that order.

17 The other issues that they're raising are
18 all being dealt with in the state court. They don't need
19 to be dealt with in this Court. The issue of the
20 sequestration of the materials, the materials under seal,
21 the not further using, everything that you heard Mr. Link
22 describe, that's being dealt with in the state court.
23 That's what the consequence is of what's happened now,
24 once there has been discovery, that in some manner this
25 material got released, but they haven't met the burden of

1 showing there is a basis to issue an order to show cause
2 against Mr. Epstein, and that is a requirement before we
3 go to step two, to phase two of this whole proceeding, and
4 we speak only on behalf of Mr. Epstein.

5 Excuse me, Judge.

6 MR. LINK: Can I have one moment to confer?

7 THE COURT: Yes.

8 MR. PUGATCH: The last point, Judge, would
9 be if your determination today is that it's going to go
10 forward in any form, or that there is going to be
11 discovery, the discovery should be limited to strictly
12 that one issue, and no other issue, which is, did you have
13 a copy of the disk or not.

14 THE COURT: Or have knowledge of it.

15 MR. PUGATCH: Or have knowledge of it.

16 THE COURT: All right. Thank you.

17 MR. PUGATCH: Thank you.

18 MR. EDWARDS: Your Honor, Brad Edwards on
19 behalf of Farmer Jaffe.

20 I want to just briefly dispel some of the
21 in-clarity that's in the record right now. First is that
22 a privilege log was not filed in this case. The privilege
23 log was filed in this case, as well as the state court
24 case. There has been a representation made that
25 Mr. Epstein did not possess the disk, and I think that

1 we're playing semantics here.

2 THE COURT: Well, I'm going to allow the
3 deposition of Epstein, as to knowledge about the disk, or
4 possession about the disk, very limited.

5 MR. EDWARDS: Only about the subject of the
6 disk, including dissemination to others, what he read from
7 the disk, things of that nature, pertaining to the
8 information on the disk, that's the only subject matter
9 that we want to inquire about.

10 MR. LINK: I think counsel is talking about
11 the information I provided my client, which we know about,
12 and has nothing to do with this Court's order.

13 So, I thought your Honor was focused on
14 whether Mr. Epstein, during the time period that Fowler
15 White had the disk, before it was given to me, knew the
16 disk existed, touched the disk, saw the disk, because I
17 have represented to the state court and to this Court in
18 my papers that once I received the disk, and we looked at
19 it, we identified 47 exhibits, which we filed in the state
20 court, and I showed those to my client. I don't know what
21 the factual issue is, Judge. I thought the Court was
22 focused on the original disk that Fowler White had in its
23 possession, and whether Mr. Epstein was aware they had it,
24 or if he ever had a copy of it, not what he's done in my
25 case.

Page 37

1 THE COURT: Response.
2 MR. EDWARDS: What has happened here is
3 exactly what Farmer Jaffe knew was going to happen in
4 2010, and voiced repeatedly to the Special Master, when it
5 was determined that Fowler White, on behalf of
6 Jeffrey Epstein, was going to be able to in-house copy this
7 material and not keep any copies.
8 The only thing that gave Farmer Jaffe any
9 confidence whatsoever that Jeffrey Epstein would not
10 retain, disseminate, review and later use to his
11 litigation advantage the privileged materials on this disk
12 was this order right here. The order of November 30th,
13 2010 was not only intended to preclude retention, that's
14 where the problem begins. What we were really trying to
15 preclude was reviewing and using the materials.
16 So, in 2010, when Fowler White ---
17 THE COURT: Your law firm prepared the
18 order, and the order doesn't say that.
19 MR. EDWARDS: Well, the order, the order
20 does say ---
21 THE COURT: It says should not retain any
22 imagines or copies of said documents.
23 UNIDENTIFIED: Or otherwise, on it's
24 computer or otherwise.
25 MR. EDWARDS: Right, Fowler White will not

Page 38

1 retain any copies of the documents contained on the disk
2 provided to it, nor any images or copies of said documents
3 be retained in the memory of Fowler White's copiers.
4 THE COURT: Well, I'm going to allow the
5 deposition of the representative of Fowler White, to
6 explain under oath, to answer the question, did they
7 retain any copies in the computers. Obviously they're
8 going to tell me the answer is no, and do they have any
9 independent knowledge of how the disk got in the box.
10 MR. EDWARDS: What we do know, though, that
11 has happened, and what we're trying to determine is the
12 scope and the breadth of what has happened, is that Fowler
13 White, through transferring their boxes, has transferred
14 this disk, along with all of the privileged information to
15 Mr. Link, who has disseminated it to others, and he has
16 represented on the record in the state court that he's
17 disseminated ---
18 THE COURT: It may show the facts, may show
19 that Fowler White did not knowingly transmit the disk.
20 They didn't -- they may -- their testimony may be that
21 they had no knowledge.
22 MR. EDWARDS: It may be, and may be, and
23 maybe there is one sanction for an inadvertent
24 transmission, and another for an intentional transmission.
25 Regardless, once Mr. Link came into the possession of

Page 39

1 this, as an agent for Mr. Epstein recently, he still put
2 into the record summaries of this material that was
3 improperly obtained.
4 THE COURT: That's been all disclosed to the
5 state court judge.
6 MR. EDWARDS: That has all been disclosed,
7 which is the problem. I mean, this is the use of these
8 materials that never should have come into possession of
9 anyone.
10 THE COURT: From what I understand it's been
11 sealed by the state court.
12 MR. LINK: It has, your Honor.
13 MR. EDWARDS: It's been sealed.
14 MR. LINK: So ---
15 MR. EDWARDS: It's been sealed, yes. The
16 representation was made on the record by Mr. Link that he
17 provided it within his law firm and his client, that being
18 Mr. Epstein. When further asked by the court, has
19 Mr. Epstein been provided with copies of the documents, or
20 the contents of these privileged documents? Mr. Link
21 replied, I just said my client, my law firm and my client,
22 and I can say legal counsel, Mr. Goldberger. So, that's
23 it.
24 So we now know that this information that
25 was improperly obtained was disseminated not only to

Page 40

1 Mr. Epstein, the adversary who now has this information,
2 it was also ---
3 THE COURT: Take that up in the state court.
4 MR. EDWARDS: That's in the state court, but
5 your Honor reserved jurisdiction to accord the right
6 sanctions for the violation, the violation being the
7 retention and all the consequential damages that stemmed
8 from that initial improper retention.
9 THE COURT: Ten years and nothing.
10 MR. EDWARDS: We don't know. I mean, we
11 just don't know what Fowler White did with it for seven
12 years, whether Jeffrey Epstein has actually had it for
13 seven years.
14 THE COURT: Well, you can ask Epstein that.
15 MR. EDWARDS: Okay. I agree.
16 MR. LINK: I've got (inaudible) -- if that's
17 what the Judge, if you're ordering, that's what ---
18 THE COURT: Well, I'm going to take the
19 order to show cause under advisement.
20 MR. LINK: Right.
21 THE COURT: I'm going to authorize the
22 deposition of the representative of Fowler White, and of
23 Epstein, individually, limited as I've indicated on the
24 record.
25 MR. LINK: Very good, thank you.

1 THE COURT: Mr. Pugatch, you draft that
 2 order.
 3 MR. PUGATCH: Will do, Judge.
 4 THE COURT: Run it by counsel.
 5 MR. SCAROLA: Thank you for your time today.
 6 THE COURT: Hold it. I'm not done.
 7 MR. SCAROLA: Oh, I'm sorry.
 8 MR. LINK: Thank you, your Honor.
 9 THE COURT: We're going to continue to take
 10 the order under advisement -- the order to show cause to a
 11 later date. I'll set it for a hearing. I'll make a
 12 determination as to whether or not, once discovery is
 13 done, let me -- there were my other notes.
 14 Oh, what is the alleged damages and claims
 15 of the parties, what sanctions are they seeking?
 16 MR. EDWARDS: Should I speak -- Brad Edwards
 17 on behalf of Farmer Jaffe.
 18 THE COURT: Well, no, just do a statement
 19 and file it --
 20 MR. EDWARDS: Okay.
 21 THE COURT: -- so it's of record. The same
 22 with the other party, Mr. Cassell.
 23 MR. CASSELL: Yes, your Honor, we have that
 24 in Docket Entry 6345, we join in the request from Farmer
 25 Jaffe, and we have seven independent requests for the

1 victims, including damages. We would also like to be --
 2 during the deposition we would like to be able to ask
 3 Epstein questions, including questions about who he has
 4 distributed these documents to.
 5 This involves a childhood sexual abuse case,
 6 and so if he's disseminating --
 7 THE COURT: No, you're not going to --
 8 MR. CASSELL: -- information about that ---
 9 THE COURT: -- depose Epstein on state court
 10 issues. You're going to be -- he's going to be limited in
 11 his testimony to if he had knowledge of the disk prior to
 12 it being disseminated --
 13 UNIDENTIFIED: To Mr. Link.
 14 THE COURT: -- to Mr. Link.
 15 MR. LINK: Your Honor, may I ask that maybe
 16 one attorney on behalf of the movant, but not -- oh, I'm
 17 sorry, I'll come over here.
 18 Your Honor, may I ask two things? Is it
 19 okay if I -- I didn't mean to interrupt you.
 20 THE COURT: Go ahead.
 21 MR. LINK: One, might I ask that since we
 22 have limited --
 23 THE CLERK: Stand by a mic.
 24 MR. LINK: -- questions you're going to
 25 allow Mr. Epstein to be asked, that one lawyer on behalf

1 of the movant ask them, and second, if you're going to
 2 allow Fowler White to do what it wants, which is to have
 3 somebody look at the disk, it has been sealed by the state
 4 court.
 5 THE COURT: No, I didn't say that.
 6 MR. LINK: Okay. I just wanted to make sure
 7 that ---
 8 THE COURT: I said I'm going to -- they can
 9 ask -- their designated representative can be asked if he
 10 had any knowledge of the disk.
 11 MR. LINK: Very good. Thank you, Judge.
 12 MR. SCAROLA: Your Honor, may I request a
 13 clarification of the Court's order?
 14 I want to be sure that we are clear with
 15 regard to the scope of the inquiry that we're permitted to
 16 conduct, particularly with regard to Mr. Epstein.
 17 THE COURT: Yes.
 18 MR. SCAROLA: Thank you, sir.
 19 Your Honor has made repeated reference to
 20 being permitted to inquire of Mr. Epstein about his
 21 possession of the disk.
 22 Your Honor's order related not only to the
 23 electronic documents, but related as well to any copies of
 24 the documents that were made.
 25 Mr. Link has made it clear in his

1 representations to your Honor today, and he has stated
 2 previously that he sent copies of the privileged documents
 3 to Mr. Epstein.
 4 Mr. Epstein, we know, retained those
 5 documents, and retention of those documents is a clear
 6 violation of your Honor's order.
 7 What we would like to be able to inquire
 8 about, in addition to whether Mr. Epstein had possession
 9 of the disk, is whether Mr. Epstein had possession of
 10 copies of any of the information obtained from that disk,
 11 including the e-mail ---
 12 THE COURT: But the disk wasn't discovered
 13 until Link found it in the 36 boxes.
 14 MR. LINK: Correct, your Honor.
 15 MR. SCAROLA: Well, yes, sir, that's what
 16 has been represented to the Court, but what Mr. Link has
 17 said is that he transferred that information to
 18 Mr. Epstein.
 19 THE COURT: After he found it.
 20 MR. SCAROLA: Well, he obviously couldn't
 21 transfer it before.
 22 THE COURT: But that's what you're
 23 litigating in state court.
 24 MR. SCAROLA: No, sir, I'm sorry, that's not
 25 what we're litigating in state court.

Page 45

1 What we are litigating in state court is the
2 malicious prosecution claim. What we want to be able to
3 litigate before your Honor is violation of this Court's
4 order, and retention of documents obtained from that disk
5 is a clear violation of your Honor's order.
6 THE COURT: I disagree with you.
7 MR. SCAROLA: May I refer the Court to
8 specific language in that regard?
9 Your Honor stated, and I quote, should it be
10 determined that Fowler White or Epstein retained images or
11 copies of the subject documents on its computer, or
12 otherwise, the Court retains jurisdiction to award
13 sanctions.
14 So, if Mr. Epstein has retained copies ---
15 THE COURT: Eight years later --
16 MR. SCAROLA: Yes, sir. Yes, sir.
17 THE COURT: -- from his lawyer --
18 MR. SCAROLA: That is correct, sir.
19 THE COURT: -- who discovered ---
20 MR. SCAROLA: That is correct, no matter
21 when it occurs, it's a violation of this Court's order.
22 THE COURT: Take that up in your state court
23 litigation.
24 MR. SCAROLA: So, just so that I'm sure,
25 your Honor is prohibiting ---

Page 46

1 THE COURT: I'm going to do the order
2 authorizing the depositions.
3 MR. SCAROLA: All right. Thank you, sir.
4 MR. EDWARDS: Judge, thank you.
5 THE COURT: All right. Now, I want --
6 Mr. Cassell and Mr. Edwards, so that it's understood, I
7 want an individual statement filed setting forth your
8 alleged damages and what you're seeking.
9 MR. EDWARDS: On behalf of all three?
10 THE COURT: Yes.
11 MR. EDWARDS: Yes, your Honor.
12 MR. PUGATCH: So, Judge, will your order --
13 MR. CASSELL: Yes, your Honor.
14 MR. PUGATCH: -- be the entire order then,
15 that you asked --
16 THE COURT: Well ---
17 MR. PUGATCH: -- me to prepare, or do you
18 still want me to do an order that continues the order to
19 show cause hearing, or are you going to wrap it all up in
20 one order?
21 THE CLERK: All one order.
22 MR. PUGATCH: Okay.
23 THE COURT: We'll do a ---
24 THE CLERK: With a nice little bow.
25 THE COURT: We'll do it in one order.

Page 47

1 All right. That concludes today's hearing.
2 MR. PUGATCH: Thank you.
3 MR. LINK: Your Honor ---
4 MR. SCAROLA: Can we have a timeframe with
5 regard to Mr. Epstein's appearance, your Honor?
6 THE COURT: It will be in the order.
7 MR. SCAROLA: Thank you very much, sir.
8 MR. LINK: Thank you very much, Judge.
9 Your Honor, may I ask one more thing --
10 THE COURT: Wait, wait, wait, wait, wait,
11 wait.
12 MR. LINK: -- before we depart?
13 THE CLERK: 6345.
14 THE COURT: 6345, motion for joinder, that's
15 going to be granted, 6345 is granted, Cassell will see to
16 that order, as he will on 6344.
17 OPERATOR: Pardon the interruption,
18 your Honor ---
19 MR. LINK: Your Honor, may I ask one
20 question?
21 THE COURT: Hang on for a minute. Let me
22 make sure I've got everything.
23 OPERATOR: I'm sorry, pardon the
24 interruption, your Honor. It looks like Mr. Cassell has
25 disconnected. I'll go ahead and redial back out to him,

Page 48

1 okay? Would you like me to re-connect him?
2 THE CLERK: We'll call ---
3 THE COURT: We'll call him.
4 THE CLERK: CourtCall, that won't be
5 necessary. I'll call the attorney myself.
6 Thank you.
7 OPERATOR: Thank you very much, Madam Clerk.
8 THE COURT: All right. That concludes ---
9 MR. LINK: May I, your Honor?
10 THE COURT: Yes.
11 MR. LINK: I was just going to ask for --
12 since Mr. Epstein's deposition is so narrow and limited by
13 this Court's order, may he appear by phone? He's in New
14 York City, your Honor, or sometimes not in the country.
15 MR. SCAROLA: We would request an
16 opportunity to depose Mr. Epstein in person, your Honor.
17 Mr. Epstein is a self-acknowledged billionaire. He
18 maintains a home in Palm Beach County, Florida.
19 THE COURT: The deposition will take place
20 in the Southern District of Florida.
21 MR. SCAROLA: Thank you very much, sir.
22 MR. EDWARDS: Thank you, your Honor.
23 MR. PUGATCH: Thank you, Judge.
24 MR. SCAROLA: Your Honor, thank you for your
25 time today.

1 THE COURT: Thank you.
 2 MR. LINK: Thank you very much, your Honor.
 3 UNIDENTIFIED: Thank you for your time.
 4 THE COURT: Let's keep all this together.
 5 THE CLERK: CourtCall, we will disconnect.
 6
 7
 8

9 (Thereupon, the hearing was concluded.)
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

CERTIFICATION

1
 2
 3
 4
 5 STATE OF FLORIDA :
 6 COUNTY OF MIAMI-DADE :

7
 8 I, Cheryl L. Jenkins, RPR, RMR, Shorthand
 9 Reporter and Notary Public in and for the State of Florida
 10 at Large, do hereby certify that the foregoing proceedings
 11 were transcribed by me from a digital recording held on
 12 the date and from the place as stated in the caption
 13 hereto on Page 1 to the best of my ability.

14 WITNESS my hand this 18th day of
 15 April, 2018.
 16
 17

18
 19 _____
 20 CHERYL L. JENKINS, RPR, RMR
 21 Court Reporter and Notary Public
 in and for the State of Florida at Large
 Commission #GG 138863
 December 27, 2021
 22
 23
 24
 25