

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

IN RE: CASE NO.: 09-34791-RBR
ROTHSTEIN ROSENFELDT ADLER, P.A., CHAPTER 11
Debtor.

**INTERVENOR-VICTIM L.M.'S MOTION TO COMPEL JEFFREY EPSTEIN TO
PROVIDE ANSWERS TO DEPOSITION QUESTIONS**

Intervenor L.M., proceeding pseudonymously, having previously been allowed to intervene in this action, now respectfully submits this Motion to Compel Jeffrey Epstein to Provide Answers to Deposition Questions. Because Epstein has improperly refused to answer multiple questions at his recent deposition, the motion should be granted.

Relevant Factual Background

The facts of this case are familiar to this Court. For present purposes, it is enough to note that on October 13, 2018, Jeffrey Epstein sat for his deposition in this matter, as previously ordered by this Court (DE 6366). The subject of the deposition was “allegations of federal civil contempt regarding the alleged discovery violations of the Agreed Order.” DE 6366 at 5 (citing DE 1194). Mr. Epstein improperly refused to answer many questions about this subject during his deposition, as enumerated below.

Relevant Legal Standards

Under Federal Bankruptcy Rule 7030, Rule 30 of the Federal Rules of Civil Procedure applies in adversary bankruptcy proceedings of this type. Under Rule 30, a deponent can refuse to answer questions only to protect a privilege or enforce a limitation ordered by the Court. Under Rule 37(a)(3)(B)(i) (made applicable to bankruptcy proceedings under Federal Bankruptcy Rule

7037), a party may move to compel an answer to a question asked during a deposition. *See, e.g., In re Stasch*, 2007 WL 1491109 (Bankr. S.D. Fla. 007) (“Fed. R. Civ. P. 37 applies in adversary proceedings. Rule 37(b)(2) permits the Court to impose sanctions for discovery violations. A primary purpose of Rule 37 is to prevent and deter future discovery abuses.”). Of course, it is well-known that discovery depositions are not limited to collecting evidence that may be admissible at trial. Instead, discovery is allowed to obtain information that is “germane, conceivably helpful to plaintiff, or reasonably calculated to lead to admissible evidence. . . . In short, information can be relevant and therefore discoverable, even if not admissible at trial, so long as the information is reasonably calculated to lead to the discovery of admissible evidence.” *Donahay v. Palm Beach Tours & Transp., Inc.*, 242 F.R.D. 685, 687 (S.D. Fla. 2007) (internal quotations omitted). The burden is on the party asserting a privilege or other basis for refusing to answer a deposition question to establish the basis for doing so. *See In re Fisher Island Investments, Inc.*, 2015 WL 148449 at * 2 (Bankr. S.D. Fla. 2015) (placing burden on party asserting privilege).

Improper Refusal to Answer Questions

During his deposition, Mr. Epstein improperly refused to answer multiple questions he was asked. Illustrative of the questions he improperly refused to answer are each of the following questions. These examples are illustrative, and Mr. Epstein should be ordered to answer all these questions and others of equivalent character or on similar subjects, including followup questions based on the answers to the questions below.

Invoices showing description of services

Q: Were you ever billed by Fowler White with invoices that included a description of the services that Fowler White rendered on your behalf?

MR. LINK: I am instructing him not to answer.

First Epstein Depo Transcript at 14 (hereinafter “1st Epstein Depo. Tr.”, attached as Exhibit A). The descriptions of the services that Fowler White rendered on Epstein’s behalf could be vital in developing a timeline about when the disc was review or copied, and questioning about the possible existence of such records is appropriate. If counsel is asserting an attorney-client objection, merely describing the kinds of invoices that Epstein received would not reveal the substance of any communication. And, in any event, Epstein bears the burden of proof on the applicability of any privilege.

Remainder of Conversation with Attorney that Epstein Partially Disclosed

Q: Paragraph four of your declaration, Exhibit Number 1, states, "In February 2018, Scott J. Link of Link & Rockenbach, PA, informed me that he had located a disc in Fowler White's files labeled," quote, Epstein Bate Stamp, unquote. Did I read that accurately?

A: Correct.

Q: That was a communication from Mr. Link, your lawyer, to you, correct?

A: Yes.

Q: What else did Mr. Link tell you?

MR. LINK: So, I’m going to instruct you not to disclose any of your conversations that involved legal advice or strategy or protected communication. If you recall that I said anything other than I located a disc specific to that topic, you can answer.

THE WITNESS: I remember that. Everything else I talked with my attorneys.

BY MR. SCAROLA:

Yes, I know you were talking to your lawyer. I want to know everything that your lawyer told you in this conversation that you have partially disclosed. . . . What else did he tell you?

MR. LINK: So, I’m going to instruct you not to answer based both on attorney-client privilege and exceeds the scope of Judge Hafele's order.

1st Epstein Depo. Tr. at 22. Clearly Epstein put forward the conversation with his attorney about the disc in paragraph four of his declaration in this case. Accordingly, he waived attorney-client privilege over the conversation. *See Fla. Stat. § 90.507* (“A person who has a privilege against the disclosure of a confidential matter or communication waives the privilege if the person, or the person's predecessor while holder of the privilege, voluntarily discloses . . . or consents to disclosure of, any significant part of the matter or communication.”). He should be compelled to

describe the rest of the conversation. And Epstein bears the burden of proving the applicability of attorney-client privilege.

Receipt of Documents from the Disc

Q: What specific documents that originated on the disc did you receive?

MR. LINK: So, I'm going to instruct you not to answer that question based on attorney-client and work product.

1st Epstein Depo. Tr. at 22. Clearly Epstein put forward the conversation with his attorney about the disc in paragraph four of his declaration. Accordingly, he waived attorney-client privilege over the conversation. *See* Fla. Stat. § 90.507 (“A person who has a privilege against the disclosure of a confidential matter or communication waives the privilege if the person, or the person's predecessor while holder of the privilege, voluntarily discloses or makes the communication when he or she does not have a reasonable expectation of privacy, or consents to disclosure of, any significant part of the matter or communication.”). He has no right to put forward the part of the conversation that he believes is helpful to him, without at the same time answering questions about other parts of the conversation. And he bears the burden of proving privilege.

Epstein's Awareness of Assertion of Privilege over Emails

Q: You are aware that there are emails which Bradley Edwards alleges to be privileged emails, correct?

A: I am aware that there -- I was told 27,000 emails [were] alleged -- in some form to be privileged.

Q: Who told you [that 27,000 documents were alleged to be privileged]?

A: My attorneys.

Q: Which one?

A: I don't recall.

Q: When?

A: I don't recall.

Q: Was it before or after March of 2018?

A: Before.

Q: Was it before or after February of 2018?

A: I don't recall.

Q: What do you remember about that conversation?

MR. LINK: Again, I don't want you to share the details of the conversation.

MR. SCAROLA: He has already done that. He has already made an assertion of what he was told. That's a waiver of the privilege. I want to know about the conversation in its entirety.

MR. LINK: And I don't believe that it was a waiver of the privilege. He gave you non-privileged communication, and he's not going to share with you privileged communications.

1st Epstein Depo. Tr. at 51-52. In the exchange quoted here, Epstein states that he “was told 27,000 emails [were] alleged -- in some form to be privileged.” That constituted a waiver of any privileges regarding what he was told, which is clearly critical to this contempt proceeding where the willfulness of Epstein’s (and his attorneys’) actions is central. Here again, Epstein cannot put forward the part of the conversation that he believes is helpful to him, without at the same time answering questions about other parts of the conversation. And he bears the burden of establishing a privilege.

Existence of Relevant Documents

Q: Were you informed that you had an obligation to bring with you at the time of this deposition those items that are described on the second page of Exhibit Number 3, quote, All communications and all records relating to all communications concerning or containing information derived from documents or data over which a claim of privilege was asserted by or on behalf of Rothstein, Rosenfeldt, Adler PA; Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.; or Bradley J. Edwards?

MR. LINK: I think -- which subpoena duces tecum are you looking at, Jack? Which case?

MR. SCAROLA: This is the subpoena duces tecum issued in the bankruptcy court proceedings.

MR. LINK: So in the bankruptcy court proceeding, we filed an objection to the subpoena duces tecum, and you and your law firm never responded, so there are no documents being produced in the bankruptcy matter.

BY MR. SCAROLA: Q: Do you have any documents that fit within the description that I just read?

MR. LINK: You are not going to answer that question.

MR. SCAROLA: And the basis for that?

MR. LINK: I filed my objection and it has sat there for months and you didn't respond to it or move to compel it. I am not going to let him answer any questions about it.

1st Epstein Depo. Tr. at 59-61. In the exchange quoted here, Epstein is merely asked whether he has documents of a certain type. Epstein's counsel argues that he had filed a motion to quash a subpoena associated with those documents. But even assuming the existence of such a motion to quash, that hardly constitutes a basis for instructing the witness not to answer. Epstein should be compelled to answer about the existence of such documents.

Bias in Answering Questions

Q: Do you have any bias against L.M., sir?

MR. LINK: I'm going to instruct you not to answer that question. It exceeds the scope of the permitted deposition by Judge Ray.

2nd Epstein Depo. Tr. at 8, attached as Exhibit B. Epstein's deposition was taken in connection with the pending contempt proceedings, and some of the answers that Epstein gave were unfavorable to L.M. L.M. is entitled to ask whether Epstein bears any bias against her. *See, e.g., Davis v. Alaska*, 415 U.S. 308, 316 (1974) ("The partiality of a witness is subject to exploration at trial, and is 'always relevant as discrediting the witness and affecting the weight of his testimony'") (*quoting* 3A J. Wigmore, Evidence § 940, p. 775 (Chadbourn rev. 1970)).

Reason to Deny Having Knowledge about the Disc.

Q: Mr. Epstein, would you have any reason to deny having knowledge about a disc that contains information about L.M.?

MR. LINK: I am going to instruct you not to answer the question. I don't understand it. I believe it exceeds the scope of this deposition as set by Judge Ray.

2nd Epstein Depo. Tr. at 10. Epstein's deposition was taken in connection with the pending contempt proceedings, and some of the answers that Epstein gave were unfavorable to L.M. L.M. is entitled to ask whether Epstein bears any bias against her. *See, e.g., Davis v. Alaska*, 415 U.S. 308, 316 (1974) ("The partiality of a witness is subject to exploration at trial, and is 'always relevant as discrediting the witness and affecting the weight of his testimony'") (*quoting* 3A J. Wigmore, Evidence § 940, p. 775 (Chadbourn rev. 1970)).

Reason to Deny Having Knowledge about a Disc Referred to in Paragraph .

Q: Do you see paragraph four of that sworn declaration of facts?

A: Yes.

Q: And do you see a reference there to a disc, quote, CD, in that paragraph?

A: Yes.

Q: Would you have any reason to deny knowledge about that CD?

MR. LINK: Object to the form. And I'm going to instruct him not to answer.

MR. CASSELL: On what basis?

MR. LINK: The question is not consistent with what Judge Ray, in his ruling, where he says very limited to asking him about his knowledge.

2nd Epstein Depo. Tr. at 13. In this contempt proceeding, Epstein filed a sworn declaration of facts, including an assertion in paragraph four regarding a CD at the center of this proceeding. Counsel is entitled to explore reasons why Epstein might not want to admit knowing about the CD, as that goes directly to his testimony on central issues in this proceeding.

Failure to Disclose Knowledge of the Disc to the Court

Q: [In your declaration] [why didn't you inform Judge Ray that you had the information from the CD in other ways?

...

MR. LINK: Well, then I am going to instruct him not to answer the question, because, A, it's nonsensical. And, B, it is beyond the scope of Judge Ray's order.

2nd Epstein Depo. Tr. at 16-17. This question asks about a paragraph in Epstein's declaration, in which he represented to the Court that he had "never seen the CD." During questioning in the deposition, it became apparent that Epstein had in fact seen the information from the CD. This question simply asks the natural followup question on this important issue: Why didn't Epstein disclose this fact to the Court?

Prejudice Against L.M.

Q: Do you have any prejudice against my client [i.e., L.M.] that would lead you to say no when in fact the answer is yes?

MR. LINK: I am going to instruct you not to answer.

2nd Epstein Depo. Tr. at 22-23. This question simply asks about Epstein's prejudice against L.M., which might lead him to give inaccurate testimony. Questioning about such bias is always relevant, as discussed earlier.

Possession of Documents Connect to the CD

Q: On or after February 1st, 2018, do you have any documents connected to the CD?

A: I don't know what you mean by connected to. Are asking me if I kept any copies of the emails that reference your client [i.e., L.M.]?

Q: No. I am asking you whether you have any documents connected to the CD.

MR. LINK: Mr. Cassell, I am just going to object and instruct him not to answer the question.

BY MR. CASSELL: Q: Mr. Epstein, on or after February 1st, 2018, do you have any documents related to the CD?

MR. LINK: Again, I'm going to object to the form. I don't know how he can answer that question. I believe it exceeds what the bankruptcy court has permitted.

The bankruptcy court was very clear that what has happened post my receipt of the CD is not an issue for the bankruptcy court, so I am going to instruct you not to answer, Mr. Epstein.

BY MR. CASSELL:

Q: Mr. Epstein, on or after February 1st, 2018, do you have any documents connected to L.M. that came from the CD?

MR. LINK: I have got the same objection and the same instruction.

2nd Epstein Depo. Tr. at 27-28. The CD is at the center of this contempt proceeding, and this passage merely shows a question about whether Epstein has document connected with the CD. Such questions are clearly within the scope of the deposition permitted.

Statements Epstein Received about Locating the CD

Q: Do you see paragraph four in that document?

A: You have asked me that question before. Yes.

Q: And in that paragraph four, it indicates that Scott Link informed you that he had located a CD.

MR. LINK: Yes, sir, that's what it says.

BY MR. CASSELL:

Q: Did he tell you anything about L.M. when he informed you he had located the disc?

MR. LINK: I am going to instruct him not to answer based on both attorney-client privilege, work product, and it exceeds the scope of Judge Ray's order.

2nd Epstein Depo. Tr. at 32. Epstein made a disclosure about what Mr. Link informed him of, and this question simply asks what was disclosed – specifically with reference to L.M. Again, such issues are at the heart of this contempt proceeding, particularly since they relate to Mr. Epstein’s declaration filed in this proceeding.

CONCLUSION

The Court should direct Mr. Epstein to answer the questions described above and questions of a similar character and should permit counsel to ask follow up questions associated without the answers that were improperly withheld.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically to all registered users on the CM/ECF system, which includes counsel identified on the service list below, on this 22nd day of October, 2018.

I HEREBY CERTIFY that the undersigned attorney is appearing pro hac vice in this matter pursuant to court order dated May 4, 2018.

Paul G. Cassell, Esq.
S.J. Quinney College of Law at the
University of Utah

[REDACTED]

(above for address/contact purposes only, not to imply institutional endorsement)

By: /s/ Paul G. Cassell
Paul G. Cassell (Utah Bar No. [REDACTED])

Pro Hac Vice

-AND -

I HEREBY CERTIFY that I am admitted to the Bar of the United State District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A).

SHAPIRO LAW

[REDACTED]

By: /s/ Peter E. Shapiro
Peter E. Shapiro (FBN [REDACTED])

[REDACTED]

Attorneys for Intervenors L.M., E.W., and Jane Doe

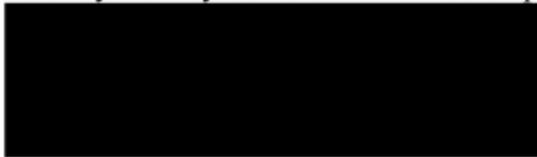
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EXHIBIT A

FIRST EPSTEIN DEPOSITION

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

Case No. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

SCOTT ROTHSTEIN, individually;
BRADLEY EDWARDS, individually,

Defendants/Counter-Plaintiffs.

VIDEOTAPED DEPOSITION

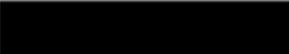
OF

JEFFREY EPSTEIN

Saturday, October 13th, 2018
9:07 a.m. - 11:00 a.m.
1555 Palm Beach Lakes Boulevard, #930
West Palm Beach, Florida 33401

Examination of the witness taken before

Sonja D. Hall
Palm Beach Reporting Service, Inc.
1665 Palm Beach Lakes Boulevard, Suite 1001
West Palm Beach, FL 33401



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APPEARANCES:

For Plaintiff/Counter-Defendant:

LINK & ROCKENBACH, P.A.
[REDACTED]

By SCOTT J. LINK, ESQUIRE
By KARA BERARD ROCKENBACH, ESQUIRE

For Plaintiff/Counter-Defendant:

ATTERBURY, GOLDBERGER & WEISS, P.A.
[REDACTED]

By JACK A. GOLDBERGER, ESQUIRE

For Defendants/Counter-Plaintiffs:

SEARCY, DENNEY, SCAROLA, BARNHART &
SHIPLEY, P.A.
[REDACTED]

By JACK SCAROLA, ESQUIRE

For Fowler White:

CARLTON FIELDS, PA
[REDACTED]

By JOSEPH IANNO, JR, ESQUIRE

For L.M., E.W. and Jane Doe:

S.J. QUINNEY COLLEGE OF LAW
at the UNIVERSITY OF UTAH
[REDACTED]

By PAUL G. CASSELL, ESQUIRE (Telephonically)

ALSO PRESENT

Above & Beyond Reprographics
[REDACTED]

By Manuel Santiago, Videographer

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I N D E X

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(No exhibits were marked.)

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1 THE VIDEOGRAPHER: We are on the video
2 record. This is the 13th day of
3 October 2018. The time is approximately
4 9:07 a.m.

5 This is the videotaped deposition of
6 Jeffrey Epstein in the matter of Jeffrey
7 Epstein versus Scott Rothstein,
8 individually; Bradley Edwards, individually;
9 L.M. individually.

10 This deposition is being held at 1555
11 Palm Beach Lakes Boulevard, West Palm Beach,
12 Florida 33401.

13 My name is Manuel Santiago. I am the
14 videographer representing Above & Beyond
15 Reprographics.

16 Will the attorneys please announce
17 their appearances for the record?

18 MR. SCAROLA: My name is Jack Scarola.
19 I am counsel on behalf of Bradley Edwards.

20 MR. LINK: Scott Link and Kara
21 Rockenbach on behalf of Mr. Epstein.

22 MR. GOLDBERGER: And Jack Goldberger on
23 behalf of Jeffrey Epstein.

24 MR. SCAROLA: On the phone we have
25 Professor Paul Cassell.

1 MR. CASSELL: Can I just chime in here?

2 Paul Cassell for L.M., E.W. and Jane Doe,
3 intervenors in the Florida State court
4 action.

5 THEREUPON,

6 JEFFREY EPSTEIN,

7 being a witness in the notice heretofore
8 filed, and being first duly sworn in the above cause,
9 testified on his oath as follows:

10 THE WITNESS: Yes.

11 DIRECT EXAMINATION

12 BY MR. SCAROLA:

13 Q Would you please state your full name?

14 A Jeffrey E. Epstein.

15 Q Would you list for us, please, each of your
16 residence addresses?

17 MR. GOLDBERGER: I think it's beyond
18 the scope. I'm going to object to Fifth
19 Amendment.

20 You want him to invoke or you okay with
21 me doing it?

22 MR. SCAROLA: We want Mr. Epstein to
23 invoke any privilege that Mr. Epstein
24 considers appropriate to invoke.

25 THE WITNESS: The Fifth.

1 BY MR. SCAROLA:

2 Q I'm sorry?

3 A The Fifth.

4 Q You are the same Jeffrey Epstein that is a
5 party in the current state court proceedings in which
6 Bradley Edwards has brought suit against you for
7 malicious prosecution, correct?

8 A Correct.

9 Q Mr. Epstein, I'm going to hand you what I
10 have marked as Exhibit Number 1 to this deposition.

11 Ask you to take a look at that document.

12 MR. SCAROLA: Paul, this is

13 Mr. Epstein's sworn declaration of fact that
14 was filed in the bankruptcy court
15 proceeding.

16 MR. CASSELL: I am familiar with that.

17 Thank you, Jack.

18 (Defendants/Counter-Plaintiffs' Exhibit
19 Number 1 was marked for identification.)

20 BY MR. SCAROLA:

21 Q Do you recognize the document, Mr. Epstein?

22 A Yes.

23 Q Is that, in fact, your signature above the
24 line that says Jeffrey Epstein?

25 A Yes.

1 Q There is a signature to the left of yours at
2 the bottom of the document. Whose signature is that?

3 A I don't know.

4 Q Who were the attorneys who were representing
5 you at the time that this declaration was prepared on
6 August 14, 2018?

7 MR. LINK: Object to the form.

8 THE WITNESS: Could you ask the
9 question again?

10 BY MR. SCAROLA:

11 Q Yes, sir.

12 Who were the lawyers who were representing
13 you in this matter on August 14, 2018?

14 THE WITNESS: Scott Link.

15 BY MR. SCAROLA:

16 Q Anyone else?

17 A Jack Goldberg.

18 Q Anyone else?

19 A Darren Indyke.

20 Q Anyone else?

21 A Not that I recall.

22 Q Who prepared this declaration?

23 A I believe the Link firm.

24 Q Was it sent to you initially in the form in
25 which it presently appears?

1 **A** I don't recall.

2 **Q** Do you have any recollection whatsoever of
3 having any input into the content of this declaration?

4 MR. LINK: So, Mr. Epstein, I just want
5 to caution you. I don't want you to share
6 any of our communications or conversations.

7 Okay. You can answer the question
8 without disclosing anything we have talked
9 about.

10 THE WITNESS: No.

11 BY MR. SCAROLA:

12 **Q** You had no input?

13 **A** I don't have anything separate from my
14 attorneys. Any input I have is with conversations with
15 my attorneys.

16 **Q** That's not my question. I have not asked you
17 whether you received any information from your
18 attorneys.

19 I asked you whether you had any input into
20 the content of this declaration.

21 MR. LINK: Again, I am going to
22 instruct you not to disclose any of our
23 conversations and communications.

24 You can simply answer yes or no to the
25 question. If you remember it, then you can.

1 THE WITNESS: Sorry. So I'm clear, the
2 conversations I had with you about this --

3 MR. LINK: We are not going to talk
4 about.

5 THE WITNESS: So is that an answer of
6 yes or no?

7 MR. LINK: If the question is, do you
8 recall whether you made any changes to what
9 was sent to you, I think you can answer yes
10 or no.

11 MR. SCAROLA: That's not the question.

12 BY MR. SCAROLA:

13 Q I want to know whether you had any input
14 whatsoever into the drafting of this declaration.

15 Was any of the information contained in
16 this declaration -- included in the declaration as a
17 consequence of input that you personally had? Or
18 was it simply all drafted by somebody else for your
19 signature?

20 MR. LINK: So, if you can answer that
21 question without disclosing our
22 communications, you can answer the question.
23 If you can't answer it without disclosing
24 our communication, Mr. Epstein, then you are
25 instructed not to answer it.

1 BY MR. SCAROLA:

2 Q Your answer to the question, sir?

3 A I can't disclose anything -- I have only had
4 a conversation with my attorney regarding this.

5 Q Yes, sir.

6 But my question does not ask you about any
7 communication you had with your lawyers. I am
8 asking you whether you had any input into the
9 language that is included within this declaration.

10 Is anything here your -- the consequence
11 of your input?

12 MR. LINK: So, let me just -- I have
13 two questions for you, Mr. Scarola. One, I
14 thought we were starting with the state
15 court matter.

16 MR. SCAROLA: We are.

17 MR. LINK: I may have misunderstood,
18 because this is a bankruptcy declaration.
19 And there isn't anything in Judge Hafele's
20 order that talks about bankruptcy testimony
21 or spoke that you can inquire about.

22 Obviously, by signing this, he has
23 adopted every statement in there as his own.
24 So I'm not sure what we are doing at the
25 moment.

1 BY MR. SCAROLA:

2 Q Can you answer the question, sir?

3 A I cannot answer the question.

4 Q Why?

5 A Anything I talked about with respect to this
6 document is a conversation with my attorneys.

7 Q And I'm not asking about any communication
8 you had with your lawyer. I want to know whether
9 anything in this affidavit is as a consequence of your
10 personal input.

11 MR. LINK: So, if there was anything
12 you did separate and apart from our
13 conversations, then you can tell him. If
14 not --

15 THE WITNESS: No.

16 BY MR. SCAROLA:

17 Q No what?

18 A No.

19 Q Nothing in this affidavit was as a result of
20 your personal input; is that correct?

21 MR. LINK: What he said was separate
22 and apart.

23 My instruction is, you may not disclose
24 any of our communications. If you can
25 answer the question about something you did

1 separate and apart from my directions to you
2 or our communications, you can answer the
3 question. Other than that, you cannot.

4 MR. SCAROLA: Mr. Link, communications
5 with counsel are privileged if they are
6 intended to remain confidential.

7 If Mr. Epstein communicated something
8 to you to include within this affidavit,
9 that, obviously, was not intended to remain
10 confidential. It was intended to be
11 communicated in this particular filing.

12 MR. LINK: Mr. Scarola, I disagree with
13 you. I'm instructing him not to answer if
14 it's based on our communications period.

15 BY MR. SCAROLA:

16 Q The second paragraph of this affidavit says,
17 "The law firm of Fowler White Burnett, PA, represented
18 me" -- meaning you -- "in the state court proceeding
19 from June 2010 through May 2012."

20 What were the terms on which you retained
21 the Fowler White Burnett law firm?

22 MR. LINK: Mr. Scarola, you are
23 exceeding the scope of the deposition in the
24 state court matter.

25 There are four very specific limited

1 topics, none of which have you asked a
2 single question about. I'm really trying to
3 understand what --

4 Do you want to do the bankruptcy first?

5 MR. SCAROLA: No. No, sir. I want to
6 do the state court proceeding first. I'm
7 asking questions that relate directly to the
8 topics that are defined within the state
9 court order and I would like an answer to
10 that question.

11 MR. LINK: Would you please tell me
12 which topic you are focused on? There are
13 only four.

14 MR. SCAROLA: This relates to all of
15 them.

16 MR. LINK: It does not, Mr. Scarola.

17 MR. SCAROLA: We have a disagreement
18 about that. If you are instructing him not
19 to answer, then the court will make a
20 determination as to whether that is or is
21 not an appropriate instruction and whether
22 we will or will not be back here to redepose
23 Mr. Epstein once again.

24 Are you instructing him to the answer?

25 MR. LINK: Your question is what were

1 the terms of his engagement of Fowler White?

2 MR. SCAROLA: Yes, that's correct.

3 MR. LINK: Then I'm instructing him not
4 to answer.

5 BY MR. SCAROLA:

6 Q Did you engage Fowler White on an hourly
7 basis?

8 MR. LINK: I am instructing him not to
9 answer.

10 BY MR. SCAROLA:

11 Q Did Fowler White present invoices to you for
12 services that were rendered on an hourly basis?

13 MR. LINK: I am instructing him not to
14 answer.

15 BY MR. SCAROLA:

16 Q Were you ever billed by Fowler White with
17 invoices that included a description of the services
18 that Fowler White rendered on your behalf?

19 MR. LINK: I am instructing him not to
20 answer.

21 BY MR. SCAROLA:

22 Q Were you kept informed as to what Fowler
23 White did on your behalf in connection with their
24 representation of you?

25 MR. LINK: I'm instructing him not to

1 answer. It exceeds the scope of the court's
2 order.

3 BY MR. SCAROLA:

4 Q Your affidavit -- excuse me. Your
5 declaration states that as part of Fowler White's
6 representation of you, that they represented you in
7 proceedings in the bankruptcy case concerning a
8 subpoena that your original counsel issued to the
9 bankruptcy trustee. Is that statement true?

10 A Yes.

11 Q Who was your original counsel that issued the
12 subpoena to the bankruptcy trustee?

13 A I don't recall.

14 Q What was subpoenaed?

15 A The question again.

16 Q What was subpoenaed?

17 A I don't recall.

18 Q Were emails subpoenaed?

19 A I'm not sure what subpoena you are talking
20 about. Sorry.

21 Q The one that you declared under penalty of
22 perjury was issued by your original counsel to the
23 bankruptcy trustee.

24 A I don't recall.

25 Q Did you ever come to learn that the trustee

1 in the bankruptcy for the law firm Rothstein,
2 Rosenfeldt & Adler had been subpoenaed to produce
3 emails contained on the server of that law firm?

4 **A** I don't recall.

5 **Q** Did it ever come to your attention that
6 emails contained on the server of the law firm
7 Rothstein, Rosenfeldt & Adler had been produced in
8 connection with the state court civil proceedings by
9 the bankruptcy trustee to a special master that had
10 been appointed for purposes of determining what, if
11 any, emails from that production would be turned over
12 in response to the subpoena that was issued?

13 **A** Separate from any conversations with my
14 attorney, I don't recall.

15 **Q** Did you ever learn that privilege was being
16 asserted with respect to the production of any emails
17 that were contained on a Rothstein, Rosenfeldt, Adler
18 server?

19 **A** Separate from a conversation with my
20 attorneys, I don't recall.

21 **Q** Are you aware, as you sit here today, that
22 federal bankruptcy Judge Ray issued an order with
23 respect to procedures to be followed in connection with
24 responding to an email subpoena?

25 **MR. LINK:** Object to the form.

1 MR. SCAROLA: What's the problem with
2 the form?

3 MR. LINK: You didn't give us any time.
4 Is there more than one?

5 MR. SCAROLA: No, I did. I said as you
6 sit here today.

7 MR. LINK: No, as to the order. But --
8 If you can answer the question, you can
9 answer question.

10 THE WITNESS: I'm sorry. You have to
11 repeat it.

12 BY MR. SCAROLA:

13 Q Yes. As you sit here today, are you aware
14 that federal bankruptcy Judge Ray issued an order
15 concerning matters relating to the production of
16 Rothstein, Rosenfeldt, Adler emails?

17 MR. LINK: Object to the form.

18 THE WITNESS: Outside conversations
19 with my attorney, no.

20 BY MR. SCAROLA:

21 Q Have you ever seen an order issued by federal
22 bankruptcy Judge Ray that impose restrictions on the
23 possession of electronic data produced in response to a
24 subpoena for emails from the Rothstein, Rosenfeldt,
25 Adler law firm?

1 MR. LINK: Object to the form.

2 THE WITNESS: Outside of conversations
3 with my attorney, no.

4 BY MR. SCAROLA:

5 Q Tell me about the conversations that you had
6 with your lawyers relating to the terms of Judge Ray's
7 order.

8 MR. LINK: I am going to instruct you
9 not to answer that question.

10 BY MR. SCAROLA:

11 Q Have you ever personally seen any of the
12 language that was included within Judge Ray's order?

13 A Outside of the conversations with my
14 attorney, no.

15 Q Well, a conversation with your lawyer does
16 not tell me anything in response to a question that
17 asks what you have seen.

18 Have you ever seen any of the language
19 included within Judge Ray's order that impose
20 restrictions on the possession of electronic data
21 relating to emails of the Rothstein, Rosenfeldt,
22 Adler firm?

23 MR. LINK: So let me object to the
24 form.

25 If you can answer the question

1 independent of communications with your
2 lawyer -- so if you looked at the order on
3 your own, then you can answer.

4 THE WITNESS: I don't recall.

5 BY MR. SCAROLA:

6 Q Are you aware that contempt proceedings are
7 pending in the federal bankruptcy court?

8 A Yes.

9 Q What is your understanding of what those
10 proceedings are about?

11 A It's in regards to the discovery of a disc
12 that was in possession of Fowler White.

13 Q What is it in regard to that disc?

14 A That's not a very good question. Sorry.

15 Q I'm sorry?

16 A Can you ask a question?

17 Q The question is, what is it about this disc
18 that is the subject matter of contempt proceedings in
19 the bankruptcy court?

20 MR. LINK: So, again, if you can answer
21 the question based on your own personal
22 review of information rather than our
23 communications, you can share that with
24 Mr. Scarola.

25 THE WITNESS: Nothing outside my

1 conversations with the attorney.

2 BY MR. SCAROLA:

3 **Q** Did you ever become aware that a subpoena was
4 issued to the bankruptcy trustee to produce emails?

5 **A** I don't recall.

6 **Q** Did you ever become aware that a claim of
7 privilege was asserted with regard to any of the emails
8 on the Rothstein, Rosenfeldt, Adler server?

9 **A** Outside of conversations with my attorney,
10 no.

11 **Q** Did your lawyer tell you that a claim of
12 privilege had been made with regard to any of the
13 emails on the RRA server?

14 MR. LINK: Mr. Scarola, you know better
15 than to ask that question.

16 Mr. Epstein, do not answer that
17 question.

18 MR. SCAROLA: Mr. Link, those happen to
19 be matters as to which privilege is waived
20 as a consequence of your own disclosures in
21 your own affidavits and your own statements
22 with respect to this case.

23 MR. LINK: I disagree with you.

24 MR. SCAROLA: That's fine.

25 MR. LINK: I'm going to instruct you

1 not to answer.

2 MR. SCAROLA: Just as long as you know
3 that it is our position that there has been
4 a waiver. You can instruct the witness not
5 to answer and the court will make a
6 determination with regard to that legal
7 issue.

8 MR. LINK: There's no question.

9 And I will say this, for the record.
10 You haven't asked a single question about
11 the four topics that Judge Hafele
12 specifically delineated for this limited
13 deposition you could take.

14 But I am instructing you not to answer
15 the question, Mr. Epstein.

16 BY MR. SCAROLA:

17 Q Paragraph four of your declaration, Exhibit
18 Number 1, states, "In February 2018, Scott J. Link of
19 Link & Rockenbach, PA, informed me that he had located
20 a disc in Fowler White's files labeled," quote, Epstein
21 Bate Stamp, unquote.

22 Did I read that accurately?

23 A Correct.

24 Q That was a communication from Mr. Link, your
25 lawyer, to you, correct?

1 **A** Yes.

2 **Q** What else did Mr. Link tell you?

3 MR. LINK: So, I'm going to instruct
4 you not to disclose any of your
5 conversations that involved legal advice or
6 strategy or protected communication.

7 If you recall that I said anything
8 other than I located a disc specific to that
9 topic, you can answer.

10 THE WITNESS: I remember that.

11 Everything else I talked with my attorneys.

12 BY MR. SCAROLA:

13 **Q** Yes, I know you were talking to your lawyer.
14 I want to know everything that your lawyer told you in
15 this conversation that you have partially disclosed.

16 MR. LINK: So --

17 BY MR. SCAROLA:

18 **Q** What else did he tell you?

19 MR. LINK: So, I'm going to instruct
20 you not to answer based both on
21 attorney-client privilege and exceeds the
22 scope of Judge Hafele's order.

23 BY MR. SCAROLA:

24 **Q** Your response?

25 MR. LINK: I have instructed him not to

1 answer.

2 BY MR. SCAROLA:

3 Q When in February of 2018 did you have this
4 communication with Mr. Link?

5 A I don't recall specifically.

6 Q What was the form of the communication?

7 A I don't recall specifically.

8 Q When you tell me you don't recall
9 specifically, that suggest that you may recall
10 generally. What is your recollection with regard to
11 the form that the communication took?

12 A It's not specifically -- I believe it was a
13 phone call. But that's my best recollection.

14 Q Where were you when you received that phone
15 call?

16 A No idea.

17 Q Did Mr. Link tell you why he was calling to
18 tell you that he had located a disc?

19 MR. LINK: Mr. Epstein, I am going to
20 instruct you not to answer the question.

21 BY MR. SCAROLA:

22 Q Did Mr. Link tell you what was on the disc?

23 MR. LINK: I'm going to instruct you
24 not to answer.

25

1 BY MR. SCAROLA:

2 Q Did Mr. Link communicate to you at any time
3 anything regarding the content of a disc that had been
4 located in Fowler White's files?

5 MR. LINK: I am going to instruct you
6 not to answer.

7 MR. SCAROLA: The basis of that
8 instruction?

9 MR. LINK: Attorney-client privilege
10 and exceeds scope of Judge Hafele's order.

11 BY MR. SCAROLA:

12 Q Had you known prior to Mr. Link's
13 communication with you in February of 2018 that Fowler
14 White had come into possession of a disc relating to
15 anything having to do with the litigation in which you
16 were involved?

17 MR. LINK: Can you read the first part?
18 Did he say if or did you? I'm sorry, I
19 missed the first words.

20 (Thereupon, the requested portion of the
21 record was read back by the reporter as
22 above duly recorded.)

23 MR. LINK: I'm going to object to form.

24 THE WITNESS: No.

25

1 BY MR. SCAROLA:

2 Q How was it that you remember that?

3 A I'm sorry. The question again.

4 Q How is it that you can tell us under oath
5 today that you had no prior knowledge of Fowler White
6 having come into possession of a disc relating to your
7 litigation?

8 A So, to be clear, to the best of my
9 recollection today, the answer is no. I have no
10 recollection whatsoever.

11 Q So the answer is not no. The answer is I
12 don't remember. Is that correct?

13 MR. LINK: No. That's not what he
14 said.

15 BY MR. SCAROLA:

16 Q Well, I want to know. Are you telling us,
17 no, you didn't know; or are you telling us, I don't
18 remember whether I knew or not?

19 A My best recollection is no. I can't be
20 certain of anything, frankly. So the answer is -- with
21 respect to most questions, my answer is no. But I
22 can't be certain that someone hadn't told me something
23 years ago. I have no recollection. I would say no.

24 Q Paragraph five of this declaration says, "I
25 have no personnel knowledge of how the CD came to be in

1 Fowler White's possession."

2 Do you have any knowledge that, in fact,
3 it did come to be in Fowler White's possession?

4 MR. LINK: So, you can -- other than
5 our communications, you can answer the
6 question.

7 THE WITNESS: It's only through
8 communications with my attorney.

9 BY MR. SCAROLA:

10 Q So Mr. Link told you that he got the disc
11 from Fowler White; is that correct?

12 MR. LINK: You can answer that
13 question.

14 THE WITNESS: Correct.

15 BY MR. SCAROLA:

16 Q Did he tell you when he got it from Fowler
17 White?

18 MR. LINK: If you remember, you can
19 answer that question.

20 THE WITNESS: Sometime in February.

21 BY MR. SCAROLA:

22 Q Are you aware that William Berger was deposed
23 in the state court civil proceeding?

24 A I don't recall.

25 Q Do you know who William Berger is?

1 **A** No, sir.

2 **Q** Do you recall a former Palm Beach County
3 circuit court judge having been involved as co-counsel
4 in the prosecution of molestation claims against you by
5 the Rothstein, Rosenfeldt, Adler firm?

6 THE WITNESS: Is this part of
7 today's --

8 MR. LINK: If you remember that there
9 was a --

10 THE WITNESS: I do not remember.

11 BY MR. SCAROLA:

12 **Q** At the time that you had the communication
13 with Mr. Link sometime in February of 2018, did
14 Mr. Link discuss any of the data that was included on
15 the disc that he was informing you about?

16 MR. LINK: Mr. Epstein, I am going to
17 instruct you not to answer.

18 BY MR. SCAROLA:

19 **Q** Have you ever received any documents that
20 were represented to have been included on that disc?

21 MR. LINK: Object to the form.

22 If you can answer that question without
23 disclosing our communications you can answer
24 it.

25 THE WITNESS: Anything I received, I

1 received from my attorneys.

2 BY MR. SCAROLA:

3 Q Yes. And I want to know whether you ever
4 received any of -- any documents that were represented
5 to you to have been printed from data on the disc that
6 Mr. Link told you about in February of 2018.

7 MR. LINK: So, again, without
8 disclosing our communications, you can
9 simply tell him whether you were provided
10 generally any documents, without disclosing
11 any specific documents or our
12 communications.

13 THE WITNESS: I don't believe so.

14 BY MR. SCAROLA:

15 Q What specific documents that originated on
16 the disc did you receive?

17 MR. LINK: So, I'm going to instruct
18 you not to answer that question based on
19 attorney-client and work product.

20 BY MR. SCAROLA:

21 Q How many documents did you receive?

22 MR. LINK: That question you can
23 answer, if you remember.

24 THE WITNESS: I don't remember.

25

1 BY MR. SCAROLA:

2 Q Can you characterize in any way the volume of
3 documents that you received that you understood
4 originated on the disc?

5 A I don't recall.

6 Q Was it more than one?

7 A Probably.

8 Q Was it more than two?

9 A Probably.

10 Q Was it more than three?

11 A I don't know what you mean by documents. Are
12 you talking about pages?

13 Q Yes. Let's be very specific.

14 Did you receive more than three pages that
15 you understood to have been printed out from the
16 disc?

17 MR. LINK: Let me think about the
18 question for a minute.

19 You can answer that question.

20 THE WITNESS: Yes.

21 BY MR. SCAROLA:

22 Q Was it more than 10?

23 A I would say less than 100, so we don't have
24 to go through numbers.

25 Q That does indeed save us some time.

1 Was it more than 50?

2 **A** I don't recall.

3 **Q** Was it probably more than 50?

4 **A** I don't recall.

5 **Q** So the best you are able to tell us is that
6 it was, more likely than not, more than three and less
7 than 100 pages, and you can't narrow it down any
8 further than that; is that correct?

9 **A** Correct.

10 **Q** How did you receive those pages?

11 **A** I don't recall.

12 **Q** Were they electronically transmitted to you?

13 **A** I don't recall.

14 **Q** Do you have any recollection of ever having
15 received hard copies of documents generated from the
16 disc?

17 MR. LINK: Object to the form.

18 You are talking about from me?

19 MR. SCAROLA: No, I didn't ask that.

20 THE WITNESS: Anything separate my
21 attorneys, nothing.

22 BY MR. SCAROLA:

23 **Q** Pardon me?

24 **A** Anything separate from the attorneys,
25 nothing.

1 **Q** Okay. Well, that's not my question.

2 **A** Okay.

3 **Q** Did you ever receive from anyone any hard
4 copies of pages that you understood to be generated
5 from the disc?

6 MR. LINK: Okay. So, I am going to
7 object to the form.

8 There are thousands of pages that have
9 been produced in this case from the disc.
10 So that general generic --

11 MR. SCAROLA: Mr. Link, that's not a
12 legal objection. If you have a legal
13 objection, please state it. Anything other
14 than that is nothing more than an attempt to
15 coach the witness.

16 MR. LINK: It's not. It's an objection
17 to the form.

18 MR. SCAROLA: That's fine. I
19 understand.

20 BY MR. SCAROLA:

21 **Q** Could you answer the question, please?

22 **A** Could you repeat it?

23 **Q** Yes, sir.

24 Did you ever receive any hard copies of
25 documents -- pages that you understood to have been

1 generated from the disc?

2 **A** Yes.

3 **Q** On how many separate occasions did you
4 receive pages in hard copy form that you understood to
5 have been generated from the disc?

6 **A** I would say less than 20.

7 **Q** Twenty occasions?

8 **A** Less than 20.

9 **Q** Let's go through each of those that you can
10 remember and tell me about those occasions on which you
11 recall having received hard copies of pages, which you
12 understood to have been generated from the disc.

13 **A** Have you asked a question?

14 **Q** Pardon me?

15 **A** Have you asked a question?

16 **Q** Yes.

17 **A** What's the question?

18 **Q** I want you to tell me about each of the
19 occasions -- we will start with the first one,
20 chronologically, when you received hard copies of pages
21 that you understood to have been generated from the
22 Fowler White disc that Mr. Link told you about in
23 February of 2018.

24 **MR. LINK:** Okay, you can answer that
25 specific question. It's a different

1 question.

2 THE WITNESS: Sometime in February I
3 was handed, from my attorneys, some
4 documents. Is what I recall. Some
5 documents from my attorneys. I was handed
6 some documents.

7 BY MR. SCAROLA:

8 Q Who specifically handed you those documents?

9 A Darren Indyke.

10 Q Where were you?

11 A I believe in New York. I can't be certain.

12 Q How many pages did Mr. Indyke hand you on
13 that occasion?

14 A Less than 100.

15 Q Were those pages accompanied by any cover
16 letter?

17 A Not that I recall.

18 Q Were they accompanied by any summary of the
19 contents?

20 A Not that I recall.

21 Q Were they accompanied by any index?

22 A Not that I recall.

23 Q What did Mr. Indyke tell you about the
24 documents when he gave him to you?

25 MR. LINK: I'm going to instruct you

1 not to answer that question based on
2 attorney-client privilege.

3 BY MR. SCAROLA:

4 Q What did you do with the documents when you
5 received them?

6 A I read them, to the best of my recollection.

7 Q Did you read them in their entirety?

8 A I don't recall.

9 Q What did the documents say?

10 Let me withdraw that question.

11 If you were asked to recount the content
12 of the documents, as you sit here today, would you
13 be able to describe the contents of the documents?

14 A Some of them, I think.

15 Q Approximately, how many documents are there
16 as to which you have the ability, as you sit here
17 today, to describe the contents?

18 A When you say documents, you mean pages? I'm
19 sorry?

20 Q Yes, sir. Pages.

21 A Well, I can remember the emails with respect
22 to Brad Edwards --

23 Q Excuse me. Pardon me. I'm stopping you,
24 sir. That's no responsive to my question. And I don't
25 want you on this record to be disclosing the content of

1 any privileged documents.

2 My question is not to ask you to describe
3 the content of those privileged documents, but to
4 tell us how many pages of privileged material you
5 have retained a recollection of that would enable
6 you to describe that content as you sit here today.

7 So how many pages?

8 MR. LINK: You can answer that
9 question.

10 I want to note for the record that you
11 have made an assertion of privilege. We
12 have challenged that privilege. And no
13 court has ever made a determination that
14 they are, in fact, privileged.

15 With that statement, you can answer the
16 question, if you can.

17 THE WITNESS: I'm sorry. Can you
18 repeat the question?

19 BY MR. SCAROLA:

20 Q Yes, sir.

21 As you sit here today, how many pages of
22 the documents that you received from Mr. Indyke --
23 something less than 100 documents --

24 A Yes.

25 Q -- would you be able to describe the contents

1 of?

2 **A** Again, I could describe the contents in
3 detail on some that I remember. I have generalizations
4 on others.

5 **Q** Let's break it down into two categories. How
6 many pages could you describe the contents of in
7 detail?

8 **A** Less than 10.

9 **Q** And how many pages could you describe the
10 contents of generally?

11 **A** Probably at least another 20.

12 **Q** Are you aware that a claim of privilege has
13 been asserted with regard to any of the documents that
14 you received from Darren Indyke?

15 **MR. LINK:** So, again, if you have
16 independent knowledge, separate and apart
17 from communications with your lawyers, you
18 can answer the question.

19 **THE WITNESS:** I have no independent
20 knowledge.

21 **BY MR. SCAROLA:**

22 **Q** Are you aware that a claim of privilege has
23 been asserted with regard to any of the documents or
24 pages that you received from Darren Indyke?

25 **MR. LINK:** Same instruction,

1 Mr. Epstein.

2 THE WITNESS: Outside of conversations
3 with my attorney, no.

4 BY MR. SCAROLA:

5 Q Regardless of where you received the
6 information from, are you aware that a claim of
7 privilege has been asserted with regard to any of those
8 documents?

9 MR. LINK: So, Mr. Epstein, the source
10 of information is important. If the sources
11 of information are our communications or
12 communications with your lawyers, I do not
13 want you to disclose that.

14 If you have independent information --
15 you have read something, you have seen
16 something outside of our communications --
17 you answer the question.

18 THE WITNESS: I have no independent
19 knowledge.

20 BY MR. SCAROLA:

21 Q Do you have knowledge that you derived from
22 your lawyers?

23 MR. LINK: Generally or about the
24 topic?

25 MR. SCAROLA: About that specific

1 topic, the assertion of privilege with
2 regard to any documents.

3 MR. LINK: We are not going to disclose
4 any topics or anything that we talked about.
5 I am instructing you not to answer.

6 BY MR. SCAROLA:

7 Q Have you ever seen a privilege log that
8 listed any of the documents that you received from
9 Mr. Indyke on that log?

10 A I don't recall.

11 Q Where did Mr. Indyke get the documents that
12 he delivered to you?

13 A I don't know.

14 Q How do you know that the documents Darren
15 Indyke delivered to you were documents that originated
16 on the disc?

17 A Outside of -- I have no independent
18 knowledge.

19 Q So that's information you received from your
20 lawyers?

21 A I have no independent knowledge.

22 Q That's not my question.

23 Is that information you received from your
24 lawyers? So they told you that the documents that
25 you received from Darren Indyke came from the Fowler

1 White disc, correct?

2 MR. LINK: I do not want you to
3 disclose your communications with your
4 lawyers. I am going to instruct you not to
5 disclose any information.

6 If you can answer any of his questions
7 based on your independent knowledge or
8 reviewed independently from discussion with
9 your lawyers you can answer the question.

10 THE WITNESS: I have no independent
11 knowledge.

12 BY MR. SCAROLA:

13 Q Have you ever reviewed the transcripts of any
14 hearings that were held either in the circuit court, in
15 the bankruptcy proceeding, or before Special Master
16 Carney with regard the production of emails?

17 A I don't recall.

18 Q I am going to hand you what I will mark as
19 Exhibit Number 2 to your deposition. It is an
20 affidavit that purports to have been signed by you and
21 filed in the circuit court proceedings in Palm Beach
22 County.

23 I would like you to take a look at that,
24 please. Tell me if you recognize that document.

25 (Defendants/Counter-Plaintiffs's Exhibit

1 Number 2 was marked for identification.)

2 MR. LINK: Mr. Scarola, do you have a
3 copy for me?

4 MR. SCAROLA: That's the only one I
5 have.

6 THE WITNESS: Okay.

7 BY MR. SCAROLA:

8 **Q** Is that your signature on that affidavit?

9 **A** Yes.

10 **Q** Did you, in fact, swear to the contents of
11 that document?

12 **A** Yes, sir.

13 **Q** You had told us there were something less
14 than 20 occasions in which you received documents that
15 had been originally contained on the Fowler White disc.
16 You told us about one of those occasions when
17 Mr. Indyke handed you documents.

18 What others do you remember?

19 MR. LINK: Object to the form. That
20 was not his testimony. That was the second
21 question that you asked.

22 The first question, I believe, was
23 general, as I made a statement thousands of
24 documents were produced.

25 MR. SCAROLA: Is this the legal

1 objection that you are making, Mr. Link?

2 MR. LINK: It is, Mr. Scarola.

3 MR. SCAROLA: Then please state the
4 legal basis of your objection, and don't
5 attempt to coach the witness.

6 MR. LINK: I'm not coaching the
7 witness. I'm correcting your misstatement.

8 MR. SCAROLA: That's fine. Your
9 objection is there is no proper predicate
10 for the question.

11 BY MR. SCAROLA:

12 Q Can you answer the question please?

13 MR. LINK: Mr. Scarola, I am going to
14 finish, please, my objection, although, you
15 did a good job of disrupting my thought,
16 because I was on a roll there.

17 But in any event, your question --
18 object to the form. It mistakes your prior
19 question and the witness's prior testimony.

20 THE WITNESS: Sorry. Could you ask it
21 again?

22 BY MR. SCAROLA:

23 Q How many other times -- or tell us about the
24 other times that you received information generated
25 from the Fowler White disc.

1 **A** I don't have any specific recollection today.

2 **Q** Can you give us any better estimate as to the
3 number of times you received information from the
4 Fowler White disc other than that it was less than 20?

5 **A** No.

6 **Q** What did you do with the documents that you
7 received that you understood to have been generated
8 from the Fowler White disc?

9 MR. LINK: Object to the form.

10 THE WITNESS: I'm sorry. I don't fully
11 understand the question.

12 BY MR. SCAROLA:

13 **Q** What did you do with the documents that
14 Mr. Indyke gave you, which you understood to have been
15 generated from the Fowler White disc?

16 **A** I read them.

17 **Q** And what did you do with them after you read
18 them?

19 **A** I left them on my desk.

20 **Q** Which desk?

21 **A** I don't remember exactly. I believe New
22 York, as I said before.

23 **Q** What happened to those documents after you
24 left them on your desk?

25 **A** After being informed by my counsel, I

1 destroyed them.

2 Q How?

3 A In a shredder.

4 Q When?

5 A The same day.

6 Q The same day that you received them from
7 Mr. Indyke?

8 A The same day I was informed by Counsel to
9 destroy them.

10 Q And when was that?

11 A Some time after February.

12 Q When in relation to having received them from
13 Mr. Indyke?

14 A Sometime -- right after the court -- Indyke
15 was in February. As soon as the court ordered me to
16 destroy them, I destroyed them.

17 Q Did you ever communicate with anyone
18 regarding the contents of those documents?

19 A Separate from my attorneys, I don't remember
20 anybody else.

21 Q Which lawyers did you communicate with about
22 the content of the documents?

23 A Scott Link, Darren, Jack.

24 Q Anyone else?

25 A Not that I recall.

1 **Q** Was there anyone else at all at any time
2 under any circumstance that you discussed the contents
3 of the documents with?

4 **A** I don't recall anybody except my attorneys.

5 **Q** Did you have any communication with Bradley
6 Edwards regarding the content of those documents?

7 **A** I don't recall.

8 **Q** Since receiving those documents, did you have
9 any communication with Bradley Edwards at all about
10 anything?

11 **A** I don't recall.

12 **Q** When you read the documents that you received
13 from Mr. Indyke, did you learn anything that you had
14 not previously known?

15 **A** Yes.

16 **Q** As you sit here today, would you be able to
17 identify those things that you learned for the first
18 time from among the documents that Mr. Indyke delivered
19 to you?

20 **A** I'm sure I can remember some of them.

21 **Q** Was there anything in those documents that
22 you already knew that was not being disclosed to you
23 for the first time upon delivery of those documents to
24 you?

25 **A** I don't recall.

1 **Q** We have marked as Exhibit Number 2 an
2 affidavit, which you acknowledged to have been signed
3 by you. Have you had a chance to read through that?

4 **A** Yes, sir.

5 **Q** You agree that there is nothing in this
6 affidavit that relates to the content of any emails,
7 correct?

8 **A** I'm sorry. Which emails?

9 **Q** The emails that you received from Darren
10 Indyke.

11 Let's establish that. The pages that you
12 received from Darren Indyke were printouts of
13 emails, were they not?

14 **A** I believe some of them were.

15 **Q** What else was in there besides email
16 printouts?

17 MR. LINK: You can say generally, if
18 you remember, without describing what was
19 provided to you.

20 THE WITNESS: My best recollection is
21 emails.

22 BY MR. SCAROLA:

23 **Q** So you have no recollection of there being
24 anything other than emails in the documents that you
25 received from Mr. Indyke, correct?

1 **A** I believe so.

2 Could you ask that question again? You
3 asked me a question. Sorry.

4 MR. LINK: I don't think there's any
5 pending --

6 MR. SCAROLA: I don't think there's a
7 pending question. There's about to be.

8 BY MR. SCAROLA:

9 **Q** You understood that the purpose of Exhibit
10 Number 2, your affidavit, was to describe all of the
11 information that you relied upon in deciding to sue
12 Bradley Edwards, correct?

13 **A** No, sir.

14 **Q** What was the purpose of this affidavit?

15 **A** It was a general -- it did not fully
16 encompass everything I might have seen prior to signing
17 it. It was a general affidavit.

18 **Q** I'm sorry.

19 **A** It was a general discussion. It didn't list
20 anything I had actually seen before signing this
21 affidavit.

22 **Q** So the affidavit does not include anything
23 that you actually saw before signing the affidavit; is
24 that correct?

25 **A** I don't believe with any specificity, sir.

1 **Q** What does that answer mean? I don't
2 understand that.

3 **A** I might have seen things that are not in this
4 affidavit.

5 **Q** All right. So what is it that you saw before
6 signing this affidavit that related to your having had
7 a good faith basis for filing the action against
8 Bradley Edwards and Scott Rothstein in December of
9 2009?

10 MR. LINK: Mr. Epstein, I am going to
11 instruct you not to answer the question. It
12 far exceeds the scope of the deposition that
13 was authorized by Judge Hafele.

14 This is not a discovery deposition
15 related to the case. Please do not answer
16 the question.

17 BY MR. SCAROLA:

18 **Q** Was there any information contained within
19 the emails that form part of your alleged good faith
20 basis for suing Bradley Edwards?

21 MR. LINK: Object to the form.
22 You can answer the question.

23 THE WITNESS: Reading the emails in the
24 Darren Indyke documents confirmed everything
25 that was in this affidavit. Yes, sir.

1 BY MR. SCAROLA:

2 Q Was there any information contained within
3 the emails that formed part of your good faith basis
4 for suing Bradley Edwards?

5 MR. LINK: Again, I am going to
6 instruct you not answer that question. It
7 exceeds the scope of the court's order.

8 BY MR. SCAROLA:

9 Q Are you aware of the specific scope of the
10 inquiry that Judge Hafele permitted during the course
11 of this deposition?

12 Did you ever see his order that outlined
13 what you were allowed to be asked about?

14 A Yes.

15 Q You are aware that topic number one was
16 whether and to what extent Epstein reviewed any of the
17 alleged privileged materials prior to March of 2018,
18 correct?

19 THE WITNESS: Is that what it says?

20 MR. LINK: That's what it says.

21 THE WITNESS: Yes.

22 BY MR. SCAROLA:

23 Q Did you review any of the allegedly
24 privileged materials prior to March 2018?

25 A That's a very general category. Which

1 privilege materials? It's 27,000 emails, so you are
2 going to have to be specific.

3 Q Well, when you were preparing for this
4 deposition, did you find out which of those 27,000
5 emails were alleged to be privileged?

6 A No.

7 Q So as you sit here today, you are incapable
8 of telling us whether you reviewed any of the alleged
9 privileged materials prior to March 2018, because you
10 have no idea what materials are alleged to be
11 privileged. Is that what you're telling us?

12 MR. LINK: Object to the form. That it
13 is not what he said.

14 THE WITNESS: I have recollection of
15 reading some of the emails.

16 BY MR. SCAROLA:

17 Q So did you review any of the allegedly
18 privileged materials prior to March 2018?

19 A Again, I understand alleged privileged
20 materials encompass 27,000 emails, so I don't
21 understand your question.

22 Q I want to know whether you reviewed any of --
23 any email, which is alleged to have been privileged at
24 any time before March of 2018.

25 MR. LINK: Object to the form.

1 THE WITNESS: Yes.

2 BY MR. SCAROLA:

3 Q How many emails alleged to have been
4 privileged did you review prior to March of 2018?

5 A Again, your question.

6 MR. SCAROLA: Read it back, please.

7 (Thereupon, the requested portion of the
8 record was read back by the reporter as
9 above duly recorded.)

10 THE WITNESS: Can you tell me how many
11 emails have been alleged to be privileged,
12 so we are talking about something --

13 BY MR. SCAROLA:

14 Q I want to know which emails you reviewed,
15 which you believed to have been alleged to be
16 privileged, prior to March of 2018.

17 MR. LINK: That's a different question.
18 You can -- if you understand, the question
19 you can answer that.

20 THE WITNESS: I'm sorry. I didn't --
21 ask it again, please.

22 MR. SCAROLA: Please read it back.

23 MR. LINK: Jack, do you mind if we try
24 to clarify this so that we can move forward,
25 because I think I understand what the

1 difficulty is?

2 MR. SCAROLA: I would like the question
3 read back to see whether or not Mr. Epstein
4 understands the question.

5 MR. LINK: Okay.

6 (Thereupon, the requested portion of the
7 record was read back by the reporter as
8 above duly recorded.)

9 THE WITNESS: I still don't understand
10 the question.

11 BY MR. SCAROLA:

12 Q Pardon me?

13 A I don't understand the question. Sorry.

14 Q You are aware that there are emails which
15 Bradley Edwards alleges to be privileged emails,
16 correct?

17 A I am aware that there -- I was told 27,000
18 emails alleged -- in some form to be privileged.

19 Q Who told you that Bradley Edwards alleged
20 27,000 emails were privileged?

21 MR. LINK: So, I don't want you to
22 share our conversations or conversations
23 with your lawyers.

24 If you can answer that question from
25 whatever documents -- independent review

1 that the order or affidavit -- whatever you
2 have seen related to the bankruptcy
3 proceeding --

4 THE WITNESS: I don't believe I have
5 any independent knowledge.

6 BY MR. SCAROLA:

7 **Q** You just said you were told that 27,000
8 emails were alleged to have been privileged.

9 **A** Sorry. That's not that I said. I said --

10 MR. SCAROLA: Would you read back
11 Mr. Epstein's answer, please?

12 MR. LINK: Do you really not want to
13 have a conversation to see if we can fix
14 this confusion?

15 MR. SCAROLA: I really don't want to.

16 (Thereupon, the requested portion of the
17 record was read back by the reporter as
18 above duly recorded.)

19 BY MR. SCAROLA:

20 **Q** Who told you?

21 **A** My attorneys.

22 **Q** Which one?

23 **A** I don't recall.

24 **Q** When?

25 **A** I don't recall.

1 Q Was it before or after March of 2018?

2 A Before.

3 Q Was it before or after February of 2018?

4 A I don't recall.

5 Q What do you remember about that conversation?

6 MR. LINK: Again, I don't want you to
7 share the details of the conversation.

8 MR. SCAROLA: He has already done that.
9 He has already made an assertion of what he
10 was told. That's a waiver of the privilege.

11 I want to know about the conversation
12 in it's entirety.

13 MR. LINK: And I don't believe that it
14 was a waiver of the privilege. He gave you
15 non-privileged communication, and he's not
16 going to share with you privileged
17 communications.

18 As you said earlier, every
19 communication isn't privileged. But the
20 discussion would have been.

21 I have let you ask questions about
22 dates and things of that nature that are not
23 privileged, but I am going to instruct him
24 not to answer your question.

25 And again, I offered on the record to

1 discuss with you what I think the impediment
2 is to these general questions, because there
3 were alleged privileged emails that were
4 produced in the litigation -- before my law
5 firm was retained -- voluntarily by
6 Mr. Edwards and his law firm, so that there
7 had been in the record alleged privileged
8 emails for years in this case. And you have
9 not asked specific questions about the
10 emails that were located by my law firm in
11 February as to your questions.

12 So I think your general questions about
13 alleged privileged emails is not encompassed
14 in what the court has asked or what we are
15 here to talk about. And it's creating
16 confusion, because there were many alleged
17 privileged emails produced years ago.

18 BY MR. SCAROLA:

19 Q Did Mr. Link tell you the things that he just
20 stated on the record at some time prior to today?

21 MR. LINK: You are not going to answer
22 that question, Mr. Epstein.

23 BY MR. SCAROLA:

24 Q Were you told at the time that Mr. Indyke
25 gave you the less than 100 pages that he said were

1 contained on the disc, that an allegation was made that
2 any of those pages were privileged?

3 THE WITNESS: Can you repeat the
4 question for me, please?

5 (Thereupon, the requested portion of the
6 record was read back by the reporter as
7 above duly recorded.)

8 MR. LINK: So if you can answer that
9 general question because the source of
10 information was from somebody other than
11 Mr. Indyke and or your lawyers, then you can
12 answer it.

13 THE WITNESS: I cannot answer it
14 separate from that.

15 BY MR. SCAROLA:

16 Q Did your lawyers, including Mr. Indyke, tell
17 you when they handed over those pages to you that
18 there's an allegation that these pages contain
19 privileged material?

20 MR. LINK: I am going to instruct you
21 not to answer it.

22 Do you mind if we take a break?

23 THE VIDEOGRAPHER: Going off the record
24 at 10:15 a.m.

25 (A recess was had.)

1 THE VIDEOGRAPHER: Going back on the
2 record. The time is 10:26 a.m.

3 BY MR. SCAROLA:

4 Q Have you ever communicated with any agent of
5 Fowler White about the disc that was turned over by
6 them to Link & Rockenbach?

7 A No. Not to the best of my knowledge.

8 Q Have you ever communicated with Tonja or Fred
9 Haddad about the Fowler White disc?

10 A Not to the best of my knowledge.

11 Q Did you ever receive a copy of the disc
12 itself?

13 A No.

14 Q Do I understand correctly that you don't
15 recall whether any information contained on disc was
16 transmitted to you electronically? Is that correct?

17 MR. LINK: Object to the form.

18 THE WITNESS: We are only talking about
19 recently, I take it, right?

20 I don't know what information was
21 contained entirely on the disc. I have
22 never seen the disc. I can't give you an
23 answer in terms of what came off the disc in
24 the past 10 years.

25 Can you ask a better question? I'm

1 sorry.

2 BY MR. SCAROLA:

3 **Q** The information you received from Mr. Indyke,
4 you were told, was information that originated on the
5 Fowler White disc, correct?

6 MR. LINK: I don't want you to disclose
7 any communications with your lawyers, but --

8 THE WITNESS: That is my belief.

9 BY MR. SCAROLA:

10 **Q** Do you have a specific recollection that that
11 information was conveyed to you in hard copy as opposed
12 to having been sent to you electronically?

13 **A** Correct.

14 **Q** Were there any electronic communications that
15 took place at any time that included any information
16 derived from the disc?

17 MR. LINK: Object to the form.

18 THE WITNESS: It's a bad question. I
19 don't have a time frame. I don't know what
20 was -- came off the discs over the past
21 eight years.

22 BY MR. SCAROLA:

23 **Q** At any time since the beginning of
24 February 2017 -- 2018, was any information conveyed to
25 you electronically, which, as you sit here today, you

1 believe to have originated on the Fowler White disc?

2 **A** I don't believe so.

3 **Q** Have you had any electronic communications
4 about the content of the Fowler White disc at any time
5 since 2018?

6 **A** With who?

7 **Q** With anyone.

8 **A** Outside of my attorneys, no.

9 **Q** Have you had communications with your
10 attorneys about information contained on the Fowler
11 White discs since February of 2018?

12 **MR. LINK:** I am going to instruct you
13 not to answer that question.

14 **BY MR. SCAROLA:**

15 **Q** This deposition was noticed duces tecum. You
16 know what that means, correct?

17 **A** No. Sorry.

18 **Q** You don't know.

19 I'm going to hand you what we will mark as
20 Exhibit Number 3.

21 (Defendants/Counter-Plaintiffs' Exhibit
22 Number 3 was marked for identification.)

23 **BY MR. SCAROLA:**

24 **Q** Can you take a look at it and tell me whether
25 you have ever seen it before?

1 MR. SCAROLA: Paul, this is a copy of
2 the Re-Notice of Taking Video Deposition
3 Duces Tecum.

4 MR. CASSELL: Thank you, Jack.

5 MR. LINK: Let me know when you are
6 finished.

7 THE WITNESS: I'm finished.

8 MR. LINK: So, Mr. Epstein, you can
9 answer the question -- I don't want you to
10 disclose our communication. But if the
11 question that's asked have you seen
12 physically that document, then you can
13 answer that. But I don't want you to
14 disclose our communications about it and
15 anything we discussed.

16 THE WITNESS: I have not seen it
17 before.

18 BY MR. SCAROLA:

19 Q Were you informed that you had an obligation
20 to bring with you at the time of this deposition those
21 items that are described on the second page of Exhibit
22 Number 3, quote, All communications and all records
23 relating to all communications concerning or containing
24 information derived from documents or data over which a
25 claim of privilege was asserted by or on behalf of

1 Rothstein, Rosenfeldt, Adler PA; Farmer, Jaffe,
2 Weissing, Edwards, Fistos & Lehrman, P.L.; or Bradley
3 J. Edwards?

4 MR. LINK: I think -- which subpoena
5 duces tecum are you looking at, Jack? Which
6 case?

7 MR. SCAROLA: This is the subpoena
8 duces tecum issued in the bankruptcy court
9 proceedings.

10 MR. LINK: So in the bankruptcy court
11 proceeding, we filed an objection to the
12 subpoena duces tecum, and you and your law
13 firm never responded, so there are no
14 documents being produced in the bankruptcy
15 matter.

16 BY MR. SCAROLA:

17 Q Do you have any documents that fit within the
18 description that I just read?

19 MR. LINK: You are not going to answer
20 that question.

21 MR. SCAROLA: And the basis for that?

22 MR. LINK: I filed my objection and it
23 has sat there for months and you didn't
24 respond to it or move to compel it. I am
25 not going to let him answer any questions

1 about it.

2 BY MR. SCAROLA:

3 Q Have you conducted any search of
4 electronically retained data on any communication
5 device or computer that you have used since March of --
6 excuse me -- since February of 2018 to determine
7 whether there is stored on that device any
8 communication or records relating to communications
9 concerning or containing information derived from
10 documents or data over which a claim of privilege has
11 been asserted in these proceedings?

12 MR. LINK: So, Mr. Epstein, I do not --
13 I am instructing you not to answer the
14 question on the basis of both our assertion
15 of an objection to the duces tecum that went
16 unanswered in the federal court --
17 bankruptcy court.

18 And secondly, it exceeds the scope of
19 the deposition in the bankruptcy court,
20 which was limited to asking you whether you
21 had the disc or were aware of the disc that
22 is subject to the bankruptcy proceeding
23 before it was delivered -- before I located
24 it. So I'm going to instruct you not to
25 answer.

1 BY MR. SCAROLA:

2 Q I am going to mark as Exhibit Number 4 the
3 Re-Notice of Taking Video Deposition Duces Tecum in the
4 circuit court proceedings.

5 (Defendants/Counter-Plaintiffs' Exhibit
6 Number 4 was marked for identification.)

7 BY MR. SCAROLA:

8 Q Hand that to you, sir, and ask you whether
9 you have seen that before.

10 MR. LINK: Again, you can answer that
11 specific question. I don't want you to
12 testify or disclose about our communications
13 that relate to that exhibit, but you can
14 answer his very specific question.

15 THE WITNESS: No.

16 BY MR. SCAROLA:

17 Q Were you aware that you had an obligation to
18 bring with you at the time of this deposition all
19 documents tending to establish whether and to what
20 extent Epstein reviewed any of the alleged privileged
21 materials prior to March 2018; whether and to what
22 extent Epstein reviewed any of the alleged privileged
23 materials after March 2018; whether Epstein has any
24 knowledge regarding compliance with the court's verbal
25 rulings on the record at the March 8th, 2018 hearing

1 regarding destruction of those documents Edwards has
2 claimed are privileged; whether and to what extent
3 Epstein has shared any of the alleged privileged
4 materials with anyone other than his attorneys,
5 understanding that the documents are described as
6 including, but not limited to all non-identical copies
7 of writings, drawing, drafts, charts, photographs,
8 phono-records, recordings, and/or any other data,
9 compilations from which information can be obtained,
10 translated, if necessary, by the party to whom the
11 request is directed through detection devices into
12 reasonably useable form?

13 Documents also include all electronic data
14 as well as application metadata and system metadata.
15 All inventories and rosters of information
16 technology systems, for example, hardware, software
17 and data, including but not limited to network
18 drawings, lists of computing devices, servers, PCs,
19 laptops, PDAs, cell phones with data storage and/or
20 transmission features, programs, data maps and
21 security tools and protocols.

22 MR. LINK: So, we filed a written
23 response and objection to the request. We
24 have asserted attorney-client privilege
25 where appropriate. We identified where no

1 documents existed. We, in fact, produced
2 the only responsive non-privileged
3 documents.

4 I will note for the record,
5 Mr. Scarola, that we did all of that in
6 advance of this deposition, even though we
7 weren't required to do so by the Florida
8 Rules of Civil Procedure that gave us 35
9 days, I believe, to do that with mailing,
10 and that information and objections and
11 documents have been produced.

12 BY MR. SCAROLA:

13 Q Did you search the data storage of any cell
14 phone that you used in order to make a determination as
15 to whether any of those items described in this duces
16 tecum exist?

17 MR. LINK: I am going to instruct you
18 not to answer. We have filed our written
19 response to the subpoena duces tecum.

20 As I just said, we did it in advance of
21 deposition, even though we weren't required
22 to under the Florida Rules of Civil
23 Procedure, and we have produced all
24 non-privileged documents.
25

1 BY MR. SCAROLA:

2 Q And I am entitled to know whether any search
3 was conducted in connection with this duces tecum.
4 Would you answer that question, please?

5 MR. LINK: I am going instruct you not
6 to answer it.

7 BY MR. SCAROLA:

8 Q Did you search any home computer or other
9 device capable of electronically storing data to
10 determine whether any documents exist within the scope
11 of the request that I have just read?

12 MR. LINK: I'm going to instruct you
13 not to answer.

14 Let the record reflect Mr. Epstein
15 testified that he shredded the hard copies
16 that he had. That's what he remembers
17 receiving. We will stand by our written
18 objections and production.

19 BY MR. SCAROLA:

20 Q As you sit here today, do you know whether
21 there is any data on any electronic storage device that
22 relates in any way to the content of the Fowler White
23 disc?

24 MR. LINK: Mr. Epstein, you can answer
25 that specific question, but you may not

1 disclose any communications between you and
2 your attorneys.

3 MR. SCAROLA: That doesn't ask for any
4 communications between Mr. Epstein and his
5 lawyer.

6 BY MR. SCAROLA:

7 Q I would like to know whether, as you sit here
8 today, you know whether there is any electronic data
9 stored on any device to which you have access that
10 contains any information derived from the Fowler White
11 disc.

12 A Since I'm not really sure what total
13 information contained from the Fowler White disc of at
14 least 27,000 emails -- and you referenced something as
15 being derived from it -- I would not be able to have
16 any recollection -- any way possible to search in any
17 way to see if there's anything that's been derived from
18 27,000 emails.

19 Q Do you have files on any electronic storage
20 device that relate to this litigation?

21 MR. LINK: Over the last 10 years?

22 BY MR. SCAROLA:

23 Q As you sit here today, do you know whether
24 there is any electronic data on any electronic data
25 storage device that relates to this litigation?

1 MR. LINK: I am going to object to the
2 form. It is not limited -- I am going to
3 instruct you not the answer. It is
4 unrelated to the bankruptcy proceeding and
5 Judge Hafele's topics.

6 If you want to try to narrow it,
7 Mr. Scarola. I obviously communicated with
8 Mr. Epstein, to this day, sometimes
9 electronically.

10 If you want to tie it in to the court's
11 order, then we will see if he can answer it.

12 MR. SCAROLA: My question stands. And
13 he is instructed not to answer that
14 question?

15 MR. LINK: Yes, sir.

16 BY MR. SCAROLA:

17 Q Thank you.

18 Mr. Epstein, have you made any effort to
19 determine whether there is anything on any
20 electronic storage device to which you have access,
21 which information was generated since February of
22 2018 relating to the contents of the Fowler White
23 disc?

24 MR. LINK: I am going to instruct you
25 not to answer.

1 MR. SCAROLA: And the basis of that
2 instruction?

3 MR. LINK: It exceeds the scope of the
4 deposition of bankruptcy proceeding and
5 Judge Hafele's specific order and our
6 objections that we filed in the circuit
7 court and the bankruptcy court.

8 BY MR. SCAROLA:

9 Q Are you aware of the entry of an order
10 requiring that all information derived from the Fowler
11 White discs be destroyed or purged?

12 A You said derived from. I'm sorry. That's
13 the problem I am having with your question.

14 MR. LINK: Object to the form. Thank
15 you.

16 BY MR. SCAROLA:

17 Q Would you answer the question please?

18 A I don't know what derived from means. I'm
19 sorry.

20 MR. LINK: As we have discussed, when
21 you say the Fowler White disc, that a -- I'm
22 assuming you mean the one that my law firm
23 discovered. The disc generated thousands --
24 tens of thousands of pages that were
25 produced in this litigation.

1 These depositions -- this deposition we
2 are here for today is limited by court order
3 to the disc that I -- that my law firm
4 located and received in February.

5 MR. SCAROLA: That's the Fowler White
6 disc, isn't it.

7 MR. LINK: No. I don't know that it
8 is.

9 MR. SCAROLA: That's the question that
10 I'm asking. The question I'm asking relates
11 specifically to the Fowler White disc and
12 whether Mr. Epstein is aware of the entry of
13 an order that required the destruction or
14 purging of all information alleged to be
15 privileged derived from the Fowler White
16 disc.

17 MR. LINK: By definition we are now
18 limiting that to the disc, which my office
19 started reviewing on February 25th, 2018.
20 If that's your clarification for all the
21 questions, then let me hear the question
22 again.

23 THE WITNESS: I don't know what derived
24 from a disc with untold amount of
25 information on it means. Sorry.

1 BY MR. SCAROLA:

2 Q I mean came from.

3 A No.

4 Q Data that came from the disc, printouts that
5 came from the disc, information that came from the disc
6 that was obtained from Fowler White and acquired,
7 allegedly, sometime in February 2018 from Fowler White
8 to Link & Rockenbach.

9 Do you now understand the question, sir?

10 A No. I don't not.

11 MR. LINK: I don't either.

12 Jack, are you asking him whether he as
13 retained any of the allegedly privilege
14 emails --

15 MR. SCAROLA: No. I was asking him
16 whether he's aware of an order --

17 MR. LINK: Can I please finish, please?

18 Are you asking him -- because the
19 question has changed -- are you asking him
20 has he retained any of the copies or
21 electronic copies of the documents that are
22 the subject of the bankruptcy proceeding
23 that were located by my law firm from a disc
24 that we started reviewing on February 25th,
25 2018?

1 I think that's a legitimate question,
2 pursuant to both -- well, pursuant to Judge
3 Hafele's order, not pursuant to the
4 bankruptcy order.

5 But your question hasn't been tailored
6 that way.

7 MR. SCAROLA: And that's because that's
8 not the question I'm asking.

9 BY MR. SCAROLA:

10 Q I want to know whether you are aware of the
11 entry of an order that restricted your possession of
12 any information that was derived from the disc that
13 Link & Rockenbach obtained from Fowler White in
14 February of 2018.

15 A The word derived -- any conversation that
16 anybody had in any way attached to that information, I
17 cannot answer that question.

18 If you are asking me the question
19 specifically -- you have to be more specific.
20 Derived from -- I don't know what derive means.

21 MR. LINK: It can encompass our
22 conversations.

23 THE WITNESS: It can encompass many
24 conversations, and subjects not related to
25 this hearing (sic).

1 BY MR. SCAROLA:

2 Q Are you aware of the entry of a court order
3 that prohibited you from obtaining possession of any
4 documents or electronic data that originated on the
5 specific copy of the disc that had been in Fowler
6 White's files and was turned over in copy form to Link
7 & Rockenbach in February of 2018?

8 MR. LINK: I object to the form. I
9 don't think there's an order that says that.

10 Do you have a court order you are
11 referring to?

12 THE WITNESS: May I see a court order?

13 BY MR. SCAROLA:

14 Q Are you aware of any court order restricting
15 your possession of that information?

16 A May I see the court order?

17 Q No, sir. I want to know whether you are
18 aware of any court order that restricted your
19 possession of that information.

20 A I don't know what that information you are
21 referring to is.

22 Q The information that was contained --

23 A Are you going to let me finish?

24 MR. LINK: Let me -- let's take a
25 pause. I think the problem we're having is

1 that the court order -- there's no court
2 order that says he has to flush his memory.

3 THE WITNESS: Excuse me. Is there a
4 court order?

5 MR. LINK: There is no court order that
6 says what Mr. Scarola says.

7 Mr. Epstein has already answered your
8 question that he received documents and he
9 shredded them when I instructed him of Judge
10 Hafele's oral ruling on March 8th, 2018.

11 BY MR. SCAROLA:

12 Q What do you know about that March 8th, 2018
13 order?

14 MR. LINK: Mr. Scarola -- Mr. Scarola,
15 this is -- no reason to get aggressive and
16 be upset. If there's an order that you
17 have -- because what you have recited is not
18 accurate. If you have an order, please show
19 us.

20 BY MR. SCAROLA:

21 Q Are you aware of an order entered by Judge
22 Hafele in March of 2018 that related to the contents of
23 the disc obtained from Fowler White's files?

24 MR. LINK: Mr. Scarola, that is a
25 misrepresentation. There was no order

1 entered. There was a verbal ruling, which
2 we complied with and filed, I believe, at
3 least two notices of compliance. So you are
4 misstating what transpired in March of 2018
5 to this witness.

6 BY MR. SCAROLA:

7 Q Are you aware of any verbal ruling -- whether
8 Mr. Link chooses to characterize as an order or
9 something other than an order -- relating to the
10 retention of documents or data derived from the Fowler
11 White disc that Link & Rockenbach obtained from the
12 files of Fowler White?

13 A I am going to take -- you will have -- again,
14 if you choose your words more carefully, I would
15 appreciate it. I don't know what derived from means.

16 Q Is it derived that you don't understand the
17 meaning of, or from that you don't understand the
18 meaning of?

19 A Derived from.

20 MR. LINK: It includes our
21 conversations, Mr. Scarola. That's the
22 issue.

23 MR. SCAROLA: Except that the question
24 relates to documents or data.

25

1 BY MR. SCAROLA:

2 Q Are you aware of the entry of an order or the
3 issuance of a ruling or the pronouncement of any court
4 that restricted retention of documents or electronic
5 data that was obtained from --

6 A Thank you.

7 Q -- the disc that Link & Rockenbach got from
8 Fowler White's files?

9 A Yes.

10 Q What do you understand that ruling, order or
11 direction to be?

12 A I was to have destroyed my copies I had of
13 those emails.

14 Q Did you have any understanding as to whether
15 that order, direction or ruling related to anything
16 other than hard copies that you had?

17 A Anything -- I believe anything I had.

18 Q And that would include any electronic data
19 that you had, correct?

20 A I believe so.

21 Q Did you make any effort whatsoever to
22 determine whether you had any electronic data that fell
23 within the scope of that ruling?

24 A Yes.

25 Q What did you do?

1 **A** I don't remember.

2 **Q** Is whatever you did an action that you took
3 personally or did it involve anyone else's efforts?

4 **A** Separate from my attorneys, I don't believe
5 so.

6 **Q** Did you engage your attorneys to attempt to
7 determine whether there was any electronic data that
8 you had that fell within the scope of the court's
9 ruling, direction or order?

10 MR. LINK: I'm going to instruct you
11 not -- A, I am going to object to the form.
12 And I don't understand the question. But I
13 am going to object to you discussing --
14 answering any question about what we
15 discussed.

16 MR. SCAROLA: I haven't asked what you
17 discussed. I am trying find out whether
18 anything was done to comply with the court's
19 order, which Mr. Epstein has said he
20 understood to include purging electronic
21 data.

22 MR. LINK: Then ask him --

23 MR. SCAROLA: If he said --

24 MR. LINK: Ask him, Did you have any
25 data and you looked and you delete it, and

1 he will answer that question. Just like he
2 said he shredded the hard copies.

3 BY MR. SCAROLA:

4 Q Did you look for any electronic data?

5 A I don't believe I had any.

6 Q Did you look for any electronic data?

7 A I don't believe I had any.

8 Q Let me try a third time.

9 A Okay.

10 Q Did you look for any electronic data or did
11 you assume, because you didn't think you had any, that
12 there was no need to look?

13 A I don't recall.

14 Q Did you engage the services of anyone else to
15 attempt to determine whether you had any electronic
16 data that you understood you were not supposed to have?

17 A Not to the best of my recollection.

18 Q What devices do you have upon which
19 electronic data could be stored?

20 MR. LINK: I am going to object to the
21 form and instruct you not to answer the
22 question as framed.

23 MR. SCAROLA: I have no further
24 questions of Mr. Epstein subject to our
25 ability to re-examine him with regard to all

1 improper objections that have been raised,
2 and with regard to items not produced that
3 fall within the scope of the duces tecum of
4 both notices.

5 MR. LINK: So you have completed both
6 the circuit court and the bankruptcy
7 deposition?

8 MR. SCAROLA: That is correct.

9 MR. LINK: Mr. Cassell, do you have --

10 MR. SCAROLA: Actually, it is not
11 correct. I'm telling you they are not
12 completed --

13 MR. LINK: Subject to your
14 reservations.

15 MR. SCAROLA: Right.

16 MR. LINK: I got that.

17 Mr. Cassell, do you have questions for
18 L.M. in the bankruptcy proceeding?

19 MR. CASSELL: I do.

20 MR. LINK: Okay. So I want the record
21 to be clear, Mr. Cassell, that you do not
22 have permission by the circuit court to ask
23 any questions in the circuit court.

24 The bankruptcy court has allowed you to
25 ask questions on behalf of L.M., directed

1 only in the bankruptcy proceeding, and
2 the -- my question is do you have questions
3 about the bankruptcy proceeding that have
4 not been asked by Mr. Scarola?

5 MR. CASSELL: I do.

6 MR. LINK: Okay.

7 MR. CASSELL: And for the record, I
8 would like to disagree with your assertion
9 that we have been denied the opportunity to
10 ask questions by the circuit court.

11 It is our position that, by virtue of
12 having intervened in that matter, and in
13 particular with matters connected to those
14 that are being discussed today, we have the
15 right to ask questions.

16 MR. LINK: There's actually a court
17 order, Mr. Cassell, that gives Bradley
18 Edwards permission to ask questions. There
19 is no court order giving the intervenors the
20 right to ask questions.

21 So I want to be clear we have closed
22 the circuit court proceeding, because the
23 only party that had permission, pursuant to
24 Judge Hafele's order to ask questions, was
25 Mr. Edwards, and Mr. Scarola -- subject to

1 your reservations, Jack -- has finished his
2 deposition of the circuit court.

3 So we are now closing that matter and
4 moving forward on the bankruptcy matter for
5 additional questions by Mr. Cassell on
6 behalf of L.M. and by Mr. Ianno on behalf of
7 Fowler White.

8 MR. SCAROLA: And it is our position on
9 behalf of Brad Edwards that once an
10 intervention has been granted and permission
11 is given to take discovery in the proceeding
12 to any party, every other party, including
13 intervenors to that proceeding, have a right
14 to participate in the discovery process.

15 MR. LINK: We will see what Judge
16 Hafele says.

17 Mr. Ianno --

18 MR. IANNO: Well, I think what we need
19 to do is do the read or waive and then just
20 splice it and start -- not to continue it.
21 We will just close it off entirely and have
22 the videographer start a whole new file and
23 the court reporter start a whole new file.

24 MR. LINK: So, yes --

25 MR. CASSELL: Before we do that, I just

1 need to ask two small things for the record.

2 It will take about 30 seconds.

3 First, I join in the statement that
4 Mr. Scarola just made. And second, I would
5 amplify that it was my understanding that
6 Mr. Epstein understood he could have
7 questions asked of him today through his
8 attorneys -- and, of course, there's no
9 court order permitting that -- just as a
10 defendant in an action is allowed to ask
11 questions during a deposition, such as this
12 one, intervenors are allowed to ask
13 questions, particularly where the subject
14 matter at issues goes directly to the
15 interest of the intervenors, which is the
16 privacy of their own confidential
17 information, which was the subject that I
18 intended to ask questions about.

19 MR. LINK: I understand. So we are
20 going to not waive. We will read, please.

21 And this closes the circuit court
22 proceeding. We understand your objections,
23 Mr. Cassell, and Mr. Scarola's reservations
24 to go back before Judge Hafele. And if we
25 are instructed to come back, we will come

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back.

THE VIDEOGRAPHER: Going off the
record. The time is 11 a.m. This marks the
end of the deposition.

- - -

(The deposition was concluded
at 11:00 a.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
 : SS
COUNTY OF PALM BEACH)

I, the undersigned authority, certify that
JEFFREY EPSTEIN personally appeared before me and was
duly sworn.

WITNESS my hand and official seal this 19th
day of October, 2018.

Sonja D. Hall
Commission No.: GG 168652
Notary Public - State of Florida
My Commission Expires: 2-01-22

1 TO: JEFFREY EPSTEIN
2 c/o SCOTT J. LINK, ESQUIRE
3 LINK & ROCKENBACH, P.A.
4 1555 Palm Beach Lakes Boulevard, Suite 301
5 West Palm Beach, FL 33401

6
7 RE: JEFFREY EPSTEIN vs. SCOTT ROTHSTEIN,
8 INDIVIDUALLY; BRADLEY EDWARDS, INDIVIDUALLY

9
10 At the conclusion of your deposition given
11 in the above-styled cause you indicated you wished to
12 read and sign the transcript.

13
14 This letter is to advise you that your
15 deposition is ready, and we ask that you call our
16 office at (561) 471-2995 at your earliest convenience
17 for an appointment to come in.

18
19 If you are a party in this action and your
20 attorney has ordered a copy of this transcript, you
21 may wish to read his copy and forward to us a
22 photostatic copy of your signed correction sheet.

23
24 It is necessary that you do this as soon as
25 possible, since the transcript cannot be held beyond
two weeks from the date of this letter.

If you have any reason which you would like
for me to place on your deposition as to your failure
to sign the same, please advise.

Thank you for your prompt attention.

Very truly yours,
PALM BEACH REPORTING SERVICE, INC.
1665 Palm Beach Lakes Blvd.,
Suite 1001
West Palm Beach, Florida 33401

BY: SONJA D. HALL

Date: October 19th, 2018

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CORRECTION SHEET:

NAME: JEFFREY EPSTEIN
RE: JEFFREY EPSTEIN vs. SCOTT ROTHSTEIN,
INDIVIDUALLY; BRADLEY EDWARDS, INDIVIDUALLY

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter held on October 13th, 2018:

PAGE(S) LINE(S) SHOULD READ

SIGNATURE: _____

DATE: _____

EXHIBIT B

SECOND EPSTEIN DEPOSITION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE

Case No. 09-34791-RBR

Chapter 11

IN RE:

ROTHSTEIN ROSENFELDT ADLER, P.A.,

Debtor

VIDEOTAPED DEPOSITION

OF

JEFFREY EPSTEIN

Saturday, October 13th, 2018
11:05 a.m. - 12:10 p.m.
1555 Palm Beach Lakes Boulevard, #930
West Palm Beach, Florida 33401

1 Examination of the witness taken before

2 Sonja D. Hall
3 Palm Beach Reporting Service, Inc.
4 1665 Palm Beach Lakes Boulevard, Suite 1001
5 West Palm Beach, FL 33401
6 (561) 471-2995

7 APPEARANCES:

8 For Jeffrey Epstein:

9 LINK & ROCKENBACH, P.A.
10 1555 Palm Beach Lakes Boulevard, Suite 301
11 West Palm Beach, FL 33401
12 By SCOTT J. LINK, ESQUIRE
13 By KARA BERARD ROCKENBACH, ESQUIRE

14 For Jeffrey Epstein:

15 ATTERBURY, GOLDBERGER & WEISS, P.A.
16 250 Australian Ave. South, Suite 1400
17 West Palm Beach, FL 33401
18 By JACK A. GOLDBERGER, ESQUIRE

19 For Bradley Edwards:

20 SEARCY, DENNEY, SCAROLA, BARNHART &
21 SHIPLEY, P.A.
22 2139 Palm Beach Lakes Boulevard
23 West Palm Beach, FL 33409
24 By JACK SCAROLA, ESQUIRE

25 EDWARDS POTTINGER LLC
425 N Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301
By Bradley Edwards, Esquire (Telephonically)

For Fowler White:

CARLTON FIELDS, PA
525 Okeechobee Boulevard, Suite 1200
West Palm Beach, FL 33401
By JOSEPH IANNO, JR, ESQUIRE

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For L.M., E.W. and Jane Doe:

S.J. QUINNEY COLLEGE OF LAW
at the UNIVERSITY OF UTAH
332 S. University Street
Salt Lake City, UT 84112
By PAUL G. CASSELL, ESQUIRE (Telephonically)

ALSO PRESENT

Above & Beyond Reprographics
2161 Palm Beach Lakes Boulevard, Suite 412
West Palm Beach, FL 33409
By Manuel Santiago, Videographer

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I N D E X

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(Exhibits 2-4 are incorporated in the
prior deposition, as agreed by Counsel.)

1 THE VIDEOGRAPHER: We are on the video
2 record. This is the 13th day of October 2018.
3 The time is approximately 11:05 a.m.

4 This is the videotaped deposition of
5 Jeffrey Epstein, In Re: Rothstein Rosenfeldt
6 Adler, P.A.

7 This deposition is being held at 1555
8 Palm Beach Lakes Boulevard, West Palm Beach,
9 Florida 33401.

10 My name is Manuel Santiago. I am the
11 videographer representing Above & Beyond
12 Reprographics.

13 Will the attorneys please announce
14 their appearances for the record?

15 MR. SCAROLA: Jack Scarola appearing on
16 behalf of Bradley Edwards.

17 MR. LINK: Scott Link and Kara Rockenbach
18 on behalf of Jeffrey Epstein.

19 MR. IANNO: Joseph Ianno, Carlton Fields
20 on behalf of Fowler White.

21 MR. GOLDBERGER: And Jack Goldberger on
22 behalf of Mr. Epstein.

23 MR. CASSELL: Paul Cassell, an attorney in
24 Utah on behalf of L.M., E.W. and Jane Doe.

25

1 THEREUPON,

2 JEFFREY EPSTEIN,

3 being a witness in the notice heretofore
4 filed, and being first duly sworn in the above cause,
5 testified on his oath as follows:

6 THE WITNESS: Yes.

7 MR. SCAROLA: For the record, we have
8 agreed by stipulation to incorporate the just
9 concluded -- subject to rulings on
10 objections -- deposition of Mr. Epstein in the
11 circuit court case as part of the record in
12 this deposition being take in the bankruptcy
13 proceeding. And I have no further questions in
14 light of that incorporation.

15 MR. IANNO: I guess I should have asked,
16 because I'm not a party -- Fowler White is not
17 a party in the state court proceedings. Does
18 everybody agree that Fowler White can obtain a
19 copy of the state court deposition, which
20 typically doesn't always happen?

21 Is that acceptable to everyone?

22 MR. SCAROLA: Yes.

23 MR. LINK: Yes. Since it relates to both
24 proceedings, yes, sir. No objection.

25 MR. SCAROLA: So with that, I believe

1 Mr. Cassell has questions for Mr. Epstein.

2 MR. LINK: Mr. Cassell, before you start,
3 I noticed you notice your appearance on behalf
4 of three intervenors. The bankruptcy court's
5 last ruling is that only intervenor L.M. has
6 standing to ask questions at this deposition.

7 So to the extent you seek to ask
8 separate questions for the other two
9 intervenors, the court order does not
10 provide that.

11 MR. CASSELL: We can address that issue,
12 should it arise. I'm not anticipating that
13 that problem will arise.

14 MR. LINK: Very good. Thank you, sir.

15 DIRECT EXAMINATION

16 BY MR. CASSELL:

17 Q Good morning, Mr. Epstein. I represent a
18 victim of sexual assault that I will refer to as L.M.

19 Do you know L.M.?

20 MR. GOLDBERGER: On behalf of Mr. Epstein,
21 Mr. Cassell, he's going to invoke his Fifth
22 Amendment privileges.

23 Do you want him to recite that or would
24 you accept my representation?

25 MR. CASSELL: I would prefer that he

1 recites that.

2 THE WITNESS: On the advice of Counsel, I
3 will assert the Fifth.

4 BY MR. CASSELL:

5 Q It will speed things up if you would just say
6 the Fifth or something like that. I think we can all
7 understand what you're doing, if that's acceptable to
8 everyone.

9 MR. GOLDBERGER: That's fine. Thank you.

10 BY MR. CASSELL:

11 Q Do you have any bias against L.M., sir?

12 MR. LINK: I'm going to instruct you not
13 to answer that question. It exceeds the scope
14 of the permitted deposition by Judge Ray.

15 MR. CASSELL: Can I have some
16 clarification, Mr. Link? I understood I was
17 entitled to ask questions going to L.M.'s
18 interest in this case. And as I pursue that, I
19 was trying to see if Mr. Epstein would have any
20 reason to provide slanted testimony in
21 connection with those subjects.

22 MR. LINK: Yes, sir. The court said, I am
23 going to allow the deposition of Epstein as to
24 knowledge about the disc or possession about
25 the disc, very limited.

1 So those are the questions in the
2 bankruptcy proceeding that I am going to
3 allow him to answer pursuant to Judge Ray's
4 order.

5 MR. SCAROLA: And it is Brad Edwards'
6 position that issues concerning bias and
7 prejudice are always appropriate with respect
8 to any deponent under any circumstances, absent
9 some specific prohibition by the court with
10 regard to those subject matters.

11 MR. LINK: Well, you have finished on
12 behalf Mr. Edwards. Are you now assisting
13 Mr. Cassell and L.M. as their counsel?

14 MR. SCAROLA: Oh, no.

15 MR. LINK: You have already said you were
16 done, Mr. Scarola.

17 MR. SCAROLA: Yes, I have asked all the
18 questions that I had, but I have every right to
19 state the position of Bradley Edwards with
20 regard to any issue that arises during the
21 course of this deposition. And bias and
22 prejudice of the witness is clearly an
23 appropriate area of inquiry.

24 MR. LINK: I'm going to, again, instruct
25 him not to answer based on Judge Ray's very

1 specific limited order of what he will allow
2 Mr. Epstein to answer.

3 BY MR. CASSELL:

4 **Q** Mr. Epstein, do you have any prejudice
5 against L.M.?

6 MR. LINK: Mr. Cassell, again, I am
7 instructing Mr. Epstein not to answer that
8 question.

9 None of these questions have anything
10 to do with whether he had knowledge of the
11 existence of the specific disc that we are
12 talking about, and I am instructing
13 Mr. Epstein not to answer.

14 BY MR. CASSELL:

15 **Q** Mr. Epstein, would you have any reason to
16 deny having knowledge about a disc that contains
17 information about L.M.?

18 MR. LINK: Give me a minute. My head is
19 twisted over the question.

20 Would you rephrase it for me,
21 Mr. Cassell, please?

22 MR. CASSELL: Why don't we just have the
23 court reporter read it back.

24 (Thereupon, the requested portion of the
25 record was read back by the reporter as

1 above duly recorded.)

2 MR. LINK: I am going to instruct you not
3 to answer the question. I don't understand it.
4 I believe it exceeds the scope of this
5 deposition as set by Judge Ray.

6 MR. CASSELL: What part of the question
7 don't you understand, Mr. Link?

8 MR. LINK: Because I don't understand it
9 at all. It's as though you're asking him does
10 he have a reason to lie about not knowing that
11 Fowler White had a disc in a box -- whatever
12 that disc is -- for a period of eight years.
13 That just doesn't make any sense to me. I
14 don't understand it.

15 BY MR. CASSELL:

16 Q Mr. Epstein, you can answer if you understand
17 it.

18 MR. LINK: He can't, because I have
19 instructed him not to.

20 BY MR. CASSELL:

21 Q Mr. Epstein, do you have any knowledge --
22 actually, let's go in this direction.

23 MR. CASSELL: And perhaps Mr. Scarola
24 could assist me and place in front of the
25 witness the declaration of Mr. Epstein filed in

1 the bankruptcy action.

2 MR. LINK: It's Exhibit 1 to this
3 deposition transcript.

4 So that the record is clear, it was
5 Exhibit 1 to the combined deposition. It is
6 now going to be marked separately as
7 Exhibit 1 to the bankruptcy deposition so
8 that it is part of the bankruptcy
9 proceeding.

10 MR. SCAROLA: The circuit court deposition
11 has been incorporated in the bankruptcy
12 deposition. Do we really need to mark the
13 document twice?

14 MR. LINK: I think it's safer to do it.

15 MR. GOLDBERGER: If we have another copy,
16 why don't we just do it. Do we have another
17 copy?

18 MR. LINK: No, no. I don't think we need
19 another copy. I just wanted the record to
20 reflect -- since we have a new transcript -- it
21 was marked, but it will be an exhibit to this
22 transcript.

23 MR. SCAROLA: The old transcript is part
24 of the new transcript.

25 MR. IANNO: But I don't know if it's going

1 to be incorporated in toto.

2 It's one page. Let's -- we all agree
3 that the court reporter can attach Exhibit 1
4 to both transcripts. That's simple.

5 MR. SCAROLA: Fine. So it will be
6 attached twice?

7 MR. IANNO: Yes. If it was 100 pages,
8 yes, it may be a problem. Butt it's one page.

9 MR. GOLDBERGER: Mr. Epstein has the
10 document, Mr. Cassell.

11 (Exhibit Number 1 was marked for
12 identification.)

13 BY MR. CASSELL:

14 Q Do you see paragraph four of that sworn
15 declaration of facts?

16 A Yes.

17 Q And do you see a reference there to a disc,
18 quote, CD, in that paragraph?

19 A Yes.

20 Q Would you have any reason to deny knowledge
21 about that CD?

22 MR. LINK: Object to the form. And I'm
23 going to instruct him not to answer.

24 MR. CASSELL: On what basis?

25 MR. LINK: The question is not consistent

1 with what Judge Ray, in his ruling, where he
2 says very limited to asking him about his
3 knowledge.

4 You want to ask him if he knew about
5 it, you can ask him that.

6 BY MR. CASSELL:

7 Q Do you have any knowledge of the CD
8 referenced in paragraph four?

9 A Yes.

10 Q Do you have any knowledge about information
11 related to L.M. on that CD?

12 MR. GOLDBERGER: I'm going to instruct
13 Mr. Epstein to invoke his Fifth Amendment
14 privileges as to that question, Mr. Cassell.
15 Jeffrey, just say Fifth.

16 THE WITNESS: Fifth.

17 BY MR. CASSELL:

18 Q When did you first learn about information
19 regarding L.M. on that CD?

20 A Sorry. The question again.

21 Q When did you first learn about information
22 about L.M. on that CD?

23 A In February.

24 Q What information did you learn about L.M. in
25 February?

1 MR. SCAROLA: Excuse me. Hold on just one
2 second.

3 THE WITNESS: I'm answering the question.

4 MR. SCAROLA: No, you're not answering the
5 question until I state my position on the
6 record.

7 It is our position that any disclosure
8 on this record of privileged information is
9 improper. And on behalf of Bradley Edwards,
10 we object to any such disclosure on the
11 record.

12 MR. CASSELL: I'm going to withdraw the
13 question, which will obviate Mr. Scarola's
14 concern.

15 MR. LINK: Okay. Do you have any other
16 questions, Mr. Cassell.

17 MR. CASSELL: Yes, I do.

18 BY MR. CASSELL:

19 Q Do you see paragraph six in the affidavit
20 before you?

21 A Yes.

22 Q And it says, quote, I have never seen the CD
23 nor received a copy of it, close quote. Is that
24 correct?

25 A That's correct.

1 Q Does that sentence contain all of the
2 information relevant to the CD?

3 MR. LINK: Object to the form.

4 THE WITNESS: I don't understand the
5 question.

6 BY MR. CASSELL:

7 Q Well, it says, "I have never seen the CD."
8 Had you seen information that was
9 contained on the CD when you wrote this affidavit?

10 A I said I have never seen the CD.

11 Q Have you seen information from the CD?

12 A Yes.

13 Q And that was not disclosed in your affidavit,
14 was it?

15 A No.

16 Q Why didn't you inform Judge Ray that you had
17 the information from the CD in other ways?

18 MR. LINK: So, I'm going to -- maybe I
19 want you to answer that question.

20 Judge Ray's order --

21 Do you want to talk to Mr. Cassell
22 privately?

23 MR. SCAROLA: No.

24 MR. LINK: Judge Ray's order -- Judge
25 Ray's order is limited to whether Mr. Epstein

1 had or was aware of the CD, which is a defined
2 term in paragraph four of the submission
3 before -- at any time before receiving it from
4 my law firm.

5 So this submission is specific to Judge
6 Ray's inquiry.

7 Now, if you want to ask him questions
8 about what he saw on that CD -- is that what
9 you intend to do, Mr. Cassell?

10 MR. CASSELL: I intend to ask the question
11 I just asked.

12 MR. LINK: Well, then I am going to
13 instruct him not to answer the question,
14 because, A, it's nonsensical. And, B, it is
15 beyond the scope of Judge Ray's order.

16 MR. CASSELL: You're saying that the only
17 thing we're permitted to ask about is the CD
18 and not information on the CD?

19 MR. LINK: If you want to ask him if he
20 saw the information that's contained on the CD
21 that is the subject of the bankruptcy
22 proceeding before receiving it from me, I won't
23 object to that.

24 Judge Ray used the word disc. And when
25 Counsel said we want to talk about the

1 information, Judge Ray said no. But if you
2 have a specific question about -- for
3 example, the documents that Mr. Epstein said
4 he received from Mr. Indyke, whether he
5 received those before February 2018, I won't
6 object to that question.

7 MR. CASSELL: And just for the record, the
8 previously propounded question, which I think
9 was proper, you're instructing him not to
10 answer that question?

11 MR. LINK: Yes, sir.

12 MR. CASSELL: Right?

13 MR. LINK: Yes, sir. Hopefully I have
14 given you guidance on a question I don't think
15 is permissible, but I would let you answer it
16 based on what you said -- I would let
17 Mr. Epstein, rather.

18 MR. CASSELL: And so the record is clear,
19 we disagree with your limited instruction. We
20 think, obviously, information related to this
21 CD is within the scope of Judge Ray's order.

22 MR. LINK: I understand that.

23 Mr. Cassell, so you know, the
24 information that's contained on that CD,
25 27,000 pages, tens of thousands of pages

1 have been produced over the last 10 years,
2 including material that at one time and
3 still remains on the defective privileged
4 log.

5 But Judge Ray has made it clear that
6 the issue in front of him is -- from
7 Mr. Epstein's standpoint is really simple.
8 It's on page 36. And it says, "I am going
9 to allow the deposition of Epstein as to
10 knowledge about the disc or possession about
11 the disc. Very limited."

12 Then I will draw your attention to page
13 45 where Mr. Scarola said, "We want to be
14 able to litigate before Your Honor a
15 violation of this court's order and
16 retention of documents obtained from the
17 disc." And the court said, "I disagree with
18 you."

19 So the court has made it abundantly
20 clear that its focus is on whether
21 Mr. Epstein knew Fowler White had a disc,
22 whatever that disc may be, before
23 communications with me.

24 MR. SCAROLA: And I will state for the
25 record that you are reading from a transcript

1 that does not conform with the subsequently
2 entered order by Judge Ray.

3 MR. LINK: You may argue that to him.

4 MR. CASSELL: That was going to be my
5 point as well.

6 MR. LINK: Go ahead with your question,
7 Mr. Cassell.

8 BY MR. LINK:

9 Q When did you see information on the CD that
10 is the subject of the bankruptcy proceeding?

11 A After February.

12 Q Would you have any reason to lie about
13 stating that you only saw the information after
14 February?

15 MR. LINK: Again, I am going to instruct
16 him not to answer that question.

17 BY MR. CASSELL:

18 Q When did you first become aware of your
19 attorneys' possession of a disc containing information
20 about L.M.?

21 MR. LINK: So, when you say your attorney,
22 are you referring to Link & Rockenbach?

23 MR. CASSELL: I said attorneys plural.
24 Any attorney.

25 THE WITNESS: After February.

1 BY MR. CASSELL:

2 Q Would you have any reason to lie in stating
3 that you first learned about this after February?

4 MR. LINK: I'm going to instruct you,
5 Mr. Epstein, not to answer the question.

6 BY MR. CASSELL:

7 Q Have you distributed any information about
8 L.M. after February?

9 MR. LINK: Object to the form.

10 Mr. Cassell, are you limiting your
11 question to the information provided by my
12 law firm and Mr. Indyke that came from the
13 CD as defined in Exhibit 1?

14 MR. CASSELL: Yes.

15 THE WITNESS: Sorry. Could you repeat the
16 question?

17 MR. LINK: He's going to repeat it, but --
18 go ahead, then I will make my objection.

19 BY MR. CASSELL:

20 Q Have you distributed any information about
21 L.M. after February?

22 A I don't know what you mean by distributed any
23 information. Sorry.

24 Q Have you distributed any information as just
25 described by Mr. Link after February regarding L.M.?

1 MR. LINK: So, I am going to object that
2 it's redundant of Mr. Scarola's questions. And
3 if you are now asking specific as to L.M., did
4 you -- Mr. Epstein, did you disclose or share
5 emails about L.M. with anyone other than your
6 attorneys, you can answer that question.

7 THE WITNESS: No.

8 BY MR. CASSELL:

9 Q In answering no a moment ago, do you have any
10 reason to lie?

11 MR. LINK: I am going to instruct him not
12 to answer.

13 BY MR. CASSELL:

14 Q Do you have any reason to answer no that
15 would be relevant to the court in evaluating the
16 truthfulness of your testimony?

17 MR. LINK: I am going to instruct him not
18 to answer.

19 BY MR. CASSELL:

20 Q Do you have any reason to be biased in
21 answering with the word no?

22 MR. LINK: I am going to instruct him not
23 to answer.

24 BY MR. CASSELL:

25 Q Do you have any prejudice against my client

1 that would lead you to say no when in fact the answer
2 is yes?

3 MR. LINK: I am going to instruct you not
4 to answer.

5 BY MR. CASSELL:

6 Q Isn't it true, sir, that the answer to the
7 previous question should have been yes?

8 A I don't understand the question.

9 Q Isn't it true, sir, that after February, you
10 distributed information about L.M. that you got from
11 the CD?

12 A Could you specifically tell me what
13 information you are referring to?

14 Q Any information.

15 MR. LINK: Unrelated to the emails from
16 the CD that we are talking about, Mr. Cassell?

17 MR. CASSELL: No. Related to any
18 information on the CD.

19 MR. LINK: To someone other than his
20 attorneys?

21 MR. CASSELL: Correct.

22 MR. LINK: He's been asked that question
23 twice and he has answered it.

24 THE WITNESS: No.

25 MR. LINK: The answer is no.

1 MR. CASSELL: And it's -- your position,
2 Mr. Link, is I cannot explore reasons why that
3 might be a false answer?

4 MR. LINK: Well, that's different than
5 saying, Are you a liar, which is the only
6 question you have asked.

7 BY MR. CASSELL:

8 Q Is there any reason why that might be a false
9 answer, Mr. Epstein?

10 MR. LINK: Again, I am going to instruct
11 him not to answer.

12 MR. CASSELL: On what basis?

13 MR. LINK: I just told you. All you're
14 doing is calling him a liar. You're not asking
15 questions that would show that what he has said
16 is untrue.

17 So I would allow you to test the
18 veracity of what he said. I'm not going to
19 let you say, Are you a liar.

20 BY MR. CASSELL:

21 Q Is there any reason why your veracity might
22 be called into question with the previous answer,
23 Mr. Epstein?

24 MR. LINK: I'm going to instruct him not
25 to answer. By the word veracity, I meant

1 asking real questions, rather than just
2 accusing him of being a liar.

3 BY MR. CASSELL:

4 Q Would you have any reason to slant your
5 testimony that you've just given, Mr. Epstein?

6 MR. LINK: I'm going to instruct him not
7 to answer.

8 Slant. Another word for liar.

9 Mr. Cassell, if all of your questions
10 are going to be are you a liar, then you can
11 just say that, and I will instruct him not
12 to answer and you don't have to go through
13 every one of them.

14 MR. CASSELL: I don't think you've
15 accurately characterized any of my questions.
16 Why don't you just make your record to each
17 question and we will move forward from there.

18 MR. LINK: Okay.

19 BY MR. CASSELL:

20 Q Mr. Epstein, do you have any documents
21 connected with this CD?

22 A I don't know what you mean by connected with.

23 Q Do you have any documents that refer to the
24 CD?

25 MR. LINK: So, Mr. Cassell, I apologize.

1 I hate to interrupt. It's definitional.

2 As I have explained, this CD --
3 whatever this CD is -- is the source of
4 27,000 pages, tens of thousands of which
5 have been produced in the course of the last
6 10 years. Many of them have been marked at
7 depositions, including some that are on a
8 privilege log. Some have been included in
9 affidavits. Some have been filed with the
10 court.

11 So the scope of the deposition
12 permitted by Judge Ray relates to
13 Mr. Epstein's knowledge that a CD, as
14 defined in our submission, was held by
15 Fowler White. That's what he has allowed
16 you to ask Mr. Epstein about. Period.

17 MR. IANNO: And on behalf of Fowler White
18 I join.

19 MR. CASSELL: My question was a simple
20 one. I asked him -- Mr. Epstein -- whether he
21 had any documents related to the CD. I don't
22 know that I got an answer to that question.

23 MR. IANNO: Mr. Cassell, this is Joe
24 Ianno. You don't have a time period. The
25 documents, as Mr. Link has said, could have

1 come from 10 years and other sources.

2 If you're going to ask him if he has
3 any documents as a result of Link &
4 Rockenbach's CD -- the CD from February of
5 2018, ask him that. But don't be generic
6 and ask him if he just has documents
7 whatsoever without any reference to a
8 specific time period.

9 MR. CASSELL: Why not?

10 MR. LINK: Because it's not within the
11 scope of the permitted bankruptcy deposition.
12 This is not a discovery deposition.

13 MR. IANNO: This is not a generic
14 deposition where we're going into the merits of
15 the case or anything.

16 This is a deposition that's limited to
17 the contempt proceedings that relate to the
18 discovery of this alleged disc.

19 Ask him those questions. But not
20 something from 10 years ago.

21 BY MR. CASSELL:

22 **Q** On or after February 1st, 2018, do you have
23 any documents connected to the CD?

24 **A** I don't know what you mean by connected to.
25 Are asking me if I kept any copies of the

1 emails that reference your client?

2 Q No. I am asking you whether you have any
3 documents connected to the CD.

4 MR. LINK: Mr. Cassell, I am just going to
5 object and instruct him not to answer the
6 question.

7 BY MR. CASSELL:

8 Q Mr. Epstein, on or after February 1st, 2018,
9 do you have any documents related to the CD?

10 MR. LINK: Again, I'm going to object to
11 the form. I don't know how he can answer that
12 question. I believe it exceeds what the
13 bankruptcy court has permitted.

14 The bankruptcy court was very clear
15 that what has happened post my receipt of
16 the CD is not an issue for the bankruptcy
17 court, so I am going to instruct you not to
18 answer, Mr. Epstein.

19 BY MR. CASSELL:

20 Q Mr. Epstein, on or after February 1st, 2018,
21 do you have any documents connected to L.M. that came
22 from the CD?

23 MR. LINK: I have got the same objection
24 and the same instruction.

25

1 BY MR. LINK:

2 Q Mr. Epstein, on or after February 1st, 2018,
3 do you have any documents related to L.M. and related
4 to the CD?

5 MR. LINK: Same objection and same
6 instruction.

7 Mr. Cassell, I promise you, I'm not
8 trying to be an obstructionist here. If you
9 would tailor the question to the bankruptcy
10 proceeding, I will let him answer.

11 BY MR. CASSELL:

12 Q Mr. Epstein, on or after February 1st, 2018,
13 do you have any documents related to the bankruptcy
14 proceeding that are connected to L.M.?

15 MR. LINK: Mr. Cassell, can I ask you a
16 question? Why are you picking February 1st
17 just for an example? Because the disc was
18 first reviewed by my office on February 25th.
19 I didn't know if it was intentional.

20 MR. CASSELL: It is intentional.

21 MR. LINK: Okay. Then I'm going to
22 instruct him not to answer pursuant to Judge
23 Ray's bankruptcy ruling.

24 BY MR. CASSELL:

25 Q Mr. Epstein, on or after February 23rd, 2018,

1 do you have any document connected to L.M. from the CD?

2 MR. LINK: Same objection and instruction,
3 Mr. Epstein.

4 BY MR. CASSELL:

5 Q Mr. Epstein, on or after February 23rd, 2018,
6 do you have any documents related to L.M. that are
7 related to the CD?

8 MR. LINK: Same objection. Same
9 instruction.

10 BY MR. CASSELL:

11 Q Mr. Epstein, on or after February 23rd, 2018,
12 do you have any documents related to the bankruptcy
13 proceeding that relate to L.M.?

14 MR. LINK: Same objection. Same
15 instruction.

16 BY MR. CASSELL:

17 Q Mr. Epstein, have you ever had a conversation
18 with Lilly Ann Sanchez related to the CD?

19 MR. IANNO: What time frame?

20 MR. CASSELL: Anytime.

21 MR. IANNO: Then I'm going to instruct him
22 not to answer because Ms. Sanchez was his
23 counsel and based on attorney-client privilege.

24 BY MR. CASSELL:

25 Q Mr. Epstein, without going into the substance

1 of any conversation you may have had with Lilly Ann
2 Sanchez, did you have a conversation with Lilly Ann
3 Sanchez about the CD?

4 MR. IANNO: Same instruction. You can ask
5 him if he had a conversation, but you can't ask
6 him if he had a conversation with his attorney
7 about a specific subject matter, because that
8 reveals the subject matter of the privilege.

9 So you can ask him if he ever talked to
10 Lilly Ann Sanchez, but not about what.

11 MR. CASSELL: So you are instructing him
12 not to answer that question?

13 MR. IANNO: It's attorney-client
14 privilege. Ms. Sanchez was an attorney with
15 Fowler White.

16 BY MR. CASSELL:

17 Q Mr. Epstein, have you looked for any
18 electronic data related to L.M. on or after
19 February 1st, 2018?

20 MR. LINK: I am going to object to the
21 form and instruct you not to answer.

22 BY MR. CASSELL:

23 Q Mr. Epstein, do you have the document I think
24 that's been marked as Exhibit 1 in front of you?

25 A Yes.

1 Q Do you see paragraph four in that document?

2 A You have asked me that question before. Yes.

3 Q And in that paragraph four, it indicates that
4 Scott Link informed you that he had located a CD.

5 MR. LINK: Yes, sir, that's what it says.

6 BY MR. CASSELL:

7 Q Did he tell you anything about L.M. when he
8 informed you he had located the disc?

9 MR. LINK: I am going to instruct him not
10 to answer based on both attorney-client
11 privilege, work product, and it exceeds the
12 scope of Judge Ray's order.

13 BY MR. CASSELL:

14 Q In February 2018, what did Mr. Link inform
15 you of?

16 MR. LINK: You know Mr. Scarola asked
17 these and I made the same objection. And the
18 objection is both attorney-client, work product
19 and exceeds the scope of Judge Ray's order.

20 BY MR. CASSELL:

21 Q What does paragraph four mean, Mr. Epstein?

22 A It says Scott Link informed me that he had
23 located a disc in Fowler White's files labeled "Epstein
24 Bate Stamp" -- quote, Epstein Bate Stamp.

25 Q Please tell me all that he informed you of.

1 MR. LINK: Mr. Cassell, I'm going to
2 instruct him not to answer based on
3 attorney-client privilege, work product,
4 exceeds the scope of Judge Ray's rulings.

5 BY MR. CASSELL:

6 Q It is true, sir, that Mr. Link told you
7 information about L.M. at that time, correct?

8 MR. LINK: Again, I am going to instruct
9 him not to answer for all the reasons I have
10 articulated a dozen times or more.

11 MR. CASSELL: And I take it we agree that
12 today's deposition is limited to liability, not
13 to damage issues; is that correct?

14 MR. LINK: Yes, sir.

15 MR. CASSELL: Because I would have
16 additional questions on damage issue. But
17 since that's not covered, I didn't want there
18 to be some argument that I have waived the
19 opportunity to ask damage questions.

20 MR. LINK: I will not assert that. We are
21 in agreement.

22 MR. CASSELL: I believe -- unless
23 Mr. Scarola has any follow-up that my questions
24 may have caused him to want to ask -- I believe
25 I am done with my questions.

1 MR. LINK: Okay. Maybe it's now
2 Mr. Ianno's turn.

3 MR. IANNO: What number exhibit are we
4 going to go with? We are going to go with
5 five?

6 May I have this marked as Exhibit 5,
7 then.

8 (Exhibit Number 5 was marked for
9 identification.)

10 CROSS-EXAMINATION

11 BY MR. IANNO:

12 Q Mr. Epstein, after you finish reviewing that
13 document marked Exhibit 5, just let me know.

14 MR. IANNO: Mr. Cassell, just so you
15 know -- I apologize -- Exhibit 5 is the
16 November 30, 2010 bankruptcy court order.

17 MR. CASSELL: Thank you.

18 BY MR. IANNO:

19 Q I want to refer you back to number one and
20 this infamous paragraph four that was discussed now for
21 a little bit.

22 Do you know where the CD originated that's
23 referenced in paragraph four of Exhibit 1?

24 A No, I do not.

25 Q Do you know how it came into Fowler White's

1 possession?

2 **A** No, I do not.

3 **Q** When you stated in paragraph four that the
4 Fowler White's file labeled quote, Epstein Bate Stamp,
5 close quote, what is labeled Epstein Bate Stamp? The
6 file or the CD?

7 **A** I believe the CD, but I'm not sure.

8 **Q** Now, let me turn to Exhibit 5, which is a
9 bankruptcy court order from November of 2010.

10 **A** Yes, sir.

11 **Q** Are you aware of this order?

12 **A** I have just read it.

13 **Q** Have you seen it before today's deposition?

14 **A** I don't recall.

15 **Q** Did you know of the existence of this order?

16 **A** I don't recall.

17 **Q** Let me turn your attention to page two, the
18 third line that begins with Fowler White.

19 **A** Okay.

20 **Q** Let's take this phrase by phrase. It states,
21 "Fowler White will not retain any copies of the
22 documents contained on the discs provided to it."

23 And that was discs, plural, correct?

24 **A** Correct.

25 **Q** Do you know what discs are referred to there?

1 **A** No.

2 **Q** Do you know if the discs referred to in
3 Exhibit 5 are the same discs or disc in Exhibit 1?

4 **A** No, sir.

5 **Q** Do you know if the disc referred to in
6 Exhibit 5 is a disc that Link found in Fowler White's
7 files -- Link & Rockenbach found -- I'm sorry -- in the
8 Fowler White's files?

9 **A** Could you repeat the question?

10 **Q** Sure.

11 Do you know if the discs referred to in
12 Exhibit 5 is the same discs or disc that Link &
13 Rockenbach found in Fowler White's files in
14 February 2018?

15 **A** I do not.

16 **Q** The order on Exhibit 5 goes on to state --
17 the next phrase -- Nor shall any images or copies of
18 said documents be retained in the memory of Fowler
19 White's computers (sic).

20 **A** Copiers.

21 **Q** Copiers. Sorry. You're correct. Thank you
22 for correcting me.

23 Do you know if there were any images or
24 copies of documents retained in the memory of Fowler
25 White's copiers?

1 **A** I do not.

2 **Q** Do you know if the documents contained on the
3 disc that is the subject of Exhibit 1 in your
4 declaration are the same documents from discs referred
5 to in Exhibit 5?

6 **A** I do not.

7 **Q** The next sentence goes on to state, "Should
8 it be determined that Fowler White or Epstein retained
9 images or copies of the subject documents on its
10 computer or otherwise --"

11 Do you have any knowledge of whether or
12 not Fowler White retained images of copies of the
13 subject documents on a computer or otherwise?

14 **A** I do not.

15 **Q** Between November 2010 and February of 2018,
16 did you have any knowledge as to whether or not a disc
17 that was the subject of Exhibit 5 was retained by
18 Fowler White?

19 **A** I did not.

20 **Q** Do you know if, in fact, a disc that is the
21 subject of Exhibit 5 was retained by Fowler White?

22 **A** I do not.

23 **Q** I just want to clarifying something. I know
24 we incorporated the previous deposition. I believe
25 Mr. Scarola asked you if you talked to any agent of

1 Fowler White about the discs. Do you recall that?

2 **A** Yes, sir.

3 **Q** I had a problem with when he used the word
4 agent.

5 **A** So did I.

6 **Q** Did you talk to any attorney with Fowler
7 White -- without disclosing the contents of the
8 communications -- between February 2018 and today about
9 the disc?

10 **A** I don't remember.

11 **Q** Do you have any general recollection of
12 calling somebody from Fowler White -- or at Fowler
13 White between February 2018 and today?

14 **A** I don't remember. Sorry.

15 MR. LINK: Paul, you still there?

16 MR. CASSELL: I am. I will have follow-up
17 questions on these questions.

18 MR. LINK: That's okay. There was just a
19 beep. I thought you got lost there.

20 MR. CASSELL: Thank you for checking.

21 BY MR. IANNO:

22 **Q** And just to clarify, Mr. Epstein, you have no
23 idea as to whether or not the disc that's referred to
24 in Exhibit 1 is the same disc that's referenced in
25 Exhibit 5, correct?

1 **A** I do not. Correct.

2 MR. IANNO: I have no further questions.

3 MR. LINK: Mr. Cassell.

4 REDIRECT EXAMINATION

5 BY MR. CASSELL:

6 **Q** I believe just a moment ago you were asked
7 about a document identified as Exhibit 5.

8 **A** Yes.

9 **Q** And that's dated November 30th, 2009,
10 correct?

11 MR. IANNO: 2010.

12 THE WITNESS: 2010.

13 BY MR. CASSELL:

14 **Q** I'm sorry. 2010. Thank you.
15 Is that right, Mr. Epstein?

16 **A** Yes.

17 **Q** And I believe you answered you had no
18 knowledge of where the disc came from from 2010
19 onwards; is that right?

20 MR. LINK: I'm not sure that was the
21 question.

22 THE WITNESS: Sorry. Can you rephrase the
23 question?

24 MR. LINK: Can you reask the question?
25

1 BY MR. LINK:

2 Q I believe you were asked and answered that
3 you had no knowledge as to how Fowler White came to
4 come into possession of a disc in or about 2009; is
5 that right?

6 MR. LINK: That's not what he asked.

7 MR. IANNO: I object. That wasn't the
8 question or the answer.

9 MR. CASSELL: Well, perhaps the court
10 reporter could assist us by reading back the
11 question regarding how Fowler White came into
12 possession of the disc and Mr. Epstein's
13 answer.

14 MR. IANNO: I can assist you there,
15 Mr. Cassell, and Mr. Scarola can correct me if
16 I'm wrong. That question was related to
17 Exhibit 1 and the disc referenced in paragraph
18 four in Exhibit 1.

19 MR. CASSELL: And my recollection is
20 Mr. Epstein denied having any knowledge
21 regarding the disc, correct?

22 MR. IANNO: He can answer, but the record
23 will reflect what his testimony was.

24 BY MR. CASSELL:

25 Q What was your answer to the question that's

1 just been referred to, Mr. Epstein?

2 MR. LINK: I'm not going to let him answer
3 a question like that. You have to ask him a
4 specific question, Mr. Cassell.

5 MR. CASSELL: I would like the court
6 reporter, then, to read back the question that
7 was asked at the beginning of the set of
8 questions that were just asked regarding a disc
9 coming into the possession of Fowler White.

10 MR. GOLDBERGER: You have to be a little
11 more specific than that. She will be searching
12 for 45 minutes.

13 MR. CASSELL: How about the second
14 substantive question that was asked?

15 MR. IANNO: He's asking for the second
16 question I asked him during my questioning.

17 MR. CASSELL: Second substantive question.

18 MR. GOLDBERGER: Mr. Cassell, the court
19 reporter is asking for direction. The second
20 question that was asked? Is that what you're
21 asking?

22 MR. CASSELL: The second question.

23 (A discussion was held off the record.)

24 MR. LINK: Why don't we go off the record.

25 Mr. Cassell, we are going off the

1 record for a minute.

2 THE VIDEOGRAPHER: Going off the record.

3 The time is 11:47 a.m.

4 (A discussion was held off the record.)

5 (Whereupon, Bradley Edwards joins the
6 proceedings.)

7 THE VIDEOGRAPHER: Going back on the
8 record. The time is 11:49 a.m.

9 BY MR. CASSELL:

10 Q And if the court reporter could read back the
11 question and the answer, I think that would speed up my
12 subsequent questions here.

13 (Thereupon, the requested portion of the
14 record was read back by the reporter as
15 above duly recorded.)

16 BY MR. CASSELL:

17 Q Do you recall the answer, "I did not,"
18 Mr. Epstein?

19 A Yes.

20 Q Did you have any reason, when you made that
21 statement, to give inaccurate testimony?

22 MR. LINK: I am going to object based on
23 all the objections I made in the past and
24 instruct you not to answer.

25

1 BY MR. CASSELL:

2 Q Did you have any reason to lie when you gave
3 that testimony, sir?

4 MR. LINK: Same instruction and objection.

5 BY MR. CASSELL:

6 Q Did you have any reason to be biased when you
7 gave that answer to that question, sir?

8 MR. LINK: Same instruction.

9 BY MR. CASSELL:

10 Q Did you have any reason to be prejudiced when
11 you gave that answer, sir?

12 MR. LINK: Same.

13 BY MR. CASSELL:

14 Q Did you have any reason to slant your
15 testimony so that it would be harmful to L.M. when you
16 gave the answer to that question, sir?

17 MR. LINK: Same.

18 BY MR. CASSELL:

19 Q Did you have any reason to slant your
20 testimony so it would be biased against any other part
21 in this matter, including Bradley J. Edwards?

22 MR. LINK: Same.

23 BY MR. LINK:

24 Q Isn't it true, sir, that you have substantial
25 reasons to give inaccurate information to the answer to

1 that question?

2 MR. LINK: Same.

3 BY MR. CASSELL:

4 Q And, sir, if I was allowed to explore why you
5 gave inaccurate information to that question, we would
6 discover substantial reasons for slanting your
7 testimony; isn't that true?

8 MR. LINK: So I'm going object to form,
9 the characterization, and I'm going to instruct
10 him not to answer.

11 MR. GOLDBERGER: Not just because of form,
12 but it's beyond the scope.

13 MR. LINK: It is beyond the scope and it's
14 a very inappropriate statement for a lawyer to
15 make in Florida -- anywhere.

16 BY MR. CASSELL:

17 Q Was the statement I just made accurate,
18 Mr. Epstein?

19 MR. LINK: I'm going to instruct him not
20 to answer for all the reasons I've already
21 articulated.

22 BY MR. CASSELL:

23 Q Isn't it true, sir, that the statement I just
24 made is accurate?

25 MR. LINK: Same instruction.

1 BY MR. CASSELL:

2 Q Sir, with regard to all the answers that you
3 gave to the attorney for Fowler White a moment ago,
4 isn't it true that you had reason to slant your
5 testimony against L.M.?

6 MR. LINK: Same instruction, Mr. Epstein.

7 BY MR. CASSELL:

8 Q In general, sir, isn't it true that you have
9 substantial bias against L.M.?

10 MR. LINK: Same instruction, Mr. Epstein.

11 BY MR. CASSELL:

12 Q With regard to the question and answer that
13 we have been talking about -- that is, the
14 November 2010 to February 2018 Fowler White disc
15 possession -- do you have any documents associated with
16 that answer?

17 MR. LINK: Does he have any documents
18 associated with his not having knowledge?

19 MR. CASSELL: Correct.

20 THE WITNESS: I don't understand the
21 question.

22 MR. LINK: How can you have documents
23 about something you don't have knowledge about,
24 Mr. Cassell?

25

1 MR. CASSELL: That's what I wanted to
2 know, whether the answer to my question is yes
3 or no.

4 THE WITNESS: I don't understand the
5 question.

6 Can you rephrase the question, sir?

7 BY MR. CASSELL:

8 Q Previously we discussed a question which was
9 to the effect that, between November 2010 and
10 February 2018, whether you had any knowledge of a disc
11 being retained by Fowler White. And you answered, I
12 did not have any knowledge.

13 I am wondering if you have any documents
14 associated with your answer?

15 MR. LINK: So, I am going to let him
16 answer the question, but I'm going to note that
17 we had an objection to the production of any
18 documents that were on the duces tecum.

19 But, Mr. Epstein, if you can answer his
20 question about whether you have any
21 documents that confirm that you had no
22 knowledge, then you can answer the question.

23 THE WITNESS: I don't --

24 MR. LINK: He doesn't understand the
25 question.

1 BY MR. CASSELL:

2 Q Would you have any documents associated with
3 possession of a disc by Fowler White between
4 November 2010 and February 2018?

5 A Again. I'm sorry. Do I have any what?

6 Q Do you have -- I'm sorry.

7 MR. LINK: I think he's asking you if you
8 have any --

9 THE WITNESS: Let him tell me.

10 MR. LINK: Mr. Cassell, what's the
11 question?

12 BY MR. CASSELL:

13 Q Do you have any documents associated with
14 Fowler White's possession of a disc between November
15 2010 and February 2018?

16 MR. IANNO: Mr. Cassell, on behalf of
17 Fowler White, I have to object, because that
18 question is very overbroad.

19 If you want to ask him about
20 specific -- Exhibit 5 is a document that he
21 may have had in his possession that relates
22 to a disc.

23 I mean, you have to be more specific
24 than just saying do you have any documents
25 that relate to it.

1 MR. CASSELL: From what I understood from
2 Mr. Link, the answer to this question was going
3 to be no because he had no knowledge of
4 anything -- or seems to be a document which
5 shows knowledge.

6 MR. LINK: I think Mr. Ianno's point is
7 your question is broader than what I was
8 saying.

9 MR. IANNO: Right.

10 MR. CASSELL: Well, I'm going to ask the
11 question again, then.

12 BY MR. CASSELL:

13 Q The question is, Mr. Epstein, do you have any
14 documents associated -- I'm sorry. Let me start over.

15 Mr. Epstein, do you have any documents
16 associated with the disc being retained by Fowler
17 White between November 2010 and February 2018?

18 A Are you referring to documents that talk
19 about the disc, or documents from the disc that has
20 27,000 piece of paper? I don't understand the
21 question. I'm sorry.

22 MR. IANNO: Mr. Cassell, I think if -- I
23 direct the focus of your question on the word
24 retain. Is that correct?

25 MR. CASSELL: That's part of the question

1 yes.

2 MR. IANNO: Okay.

3 MR. LINK: The way the question is framed,
4 Mr. Cassell, the witness can't answer it.

5 MR. CASSELL: Well, the witness can
6 explain to me why he can't answer it and I
7 will --

8 THE WITNESS: Because it's 27,000 --

9 MR. CASSELL: I'm going to object to the
10 attorneys coaching.

11 The attorneys are entitled to object to
12 my question, and should feel free to do so.
13 But I don't want the attorneys telling me
14 what Mr. Epstein can and cannot do. He's
15 perfectly capable of speaking for himself.

16 MR. LINK: Fair enough. We were trying to
17 be helpful and move it along. Why don't you
18 ask the question and we will decide whether he
19 can answer it or not.

20 BY MR. CASSELL:

21 Q Mr. Epstein, do you have any documents
22 associated with a disc retained by Fowler White in
23 November 2010 and February 2018?

24 A What does associated mean?

25 Q Associated would be the standard definition

1 of associated, connected to or related to.

2 MR. LINK: Mr. Cassell, I'm sorry to jump
3 in here. Are you talking about as defined --
4 the CD in paragraph four of Mr. Epstein's
5 declaration?

6 MR. CASSELL: I was talking, what I
7 thought was well established at this point,
8 about a question that the Fowler White attorney
9 asked and an answer that Mr. Epstein gave about
10 10 minutes ago.

11 MR. LINK: I think there's a disconnect.

12 MR. IANNO: You're confusing the
13 transcript.

14 MR. LINK: I'm going to do this. Make it
15 easy. I am going to instruct him not to answer
16 the pending question.

17 If you have a different question that
18 ties into whether Mr. Epstein had knowledge
19 before February 2018 of the existence, or
20 whether he had possession of the CD as
21 defined in paragraph four of his submission,
22 I will let him answer that.

23 MR. CASSELL: Why are objecting to him
24 answering this question?

25 MR. LINK: Because it's an overly broad

1 question that is unrelated to the bankruptcy
2 proceeding.

3 And as we have talked about extensively
4 here, there are multiple discs. There are
5 27,000 pages, tens of thousands of which
6 have been produced at various times.

7 And -- so to ask the general question
8 about the contents of the disc is different
9 than asking about the specific disc that's
10 referenced in the affidavit and the
11 submission, and that's the scope of the
12 bankruptcy proceeding.

13 MR. CASSELL: I have to say that I'm
14 perplexed, because 10 minutes ago the attorney
15 for Fowler White asked Mr. Epstein as part of
16 the bankruptcy proceeding whether he had any
17 knowledge of a disc being retained by Fowler
18 White. And I'm now simply following up on that
19 question. So it's not clear to me how this
20 could somehow be unconnected with the
21 bankruptcy proceeding when my question directly
22 relates to a question that was asked just 10
23 minutes ago.

24 MR. IANNO: No, it doesn't, Mr. Cassell.
25 Your question goes far beyond what I asked, and

1 I will leave it at that.

2 BY MR. CASSELL:

3 Q Mr. Epstein, are you familiar with the
4 question that was asked to you about 10 minutes ago
5 that I had the court reporter read back to you?

6 A Yes, sir.

7 Q Are you familiar with your answer?

8 A Yes, sir.

9 Q Do you have any documents connected with your
10 answer?

11 A The question asked was did I have any
12 knowledge of the disc being retained. I have no -- to
13 the best of my recollection, any documents that reflect
14 whether I knew that the disc was retained.

15 Is that an answer to your question?

16 Q Yes.

17 MR. LINK: Thank you, Mr. Epstein.

18 BY MR. CASSELL:

19 Q When you say to the best of your knowledge,
20 do you have any reason to be forgetful on this topic?

21 A It's been -- you described it's been 10
22 years -- eight years since this disc, so I don't know
23 with specificity over eight years and what documents
24 have been derived from or touched this -- related to,
25 in your words. So your question is just too broad for

1 me to answer. I'm sorry.

2 Q So let's focus, then, on or about
3 November 30th, 2010. Do you have any reason to forget
4 what knowledge you would have had about Fowler White
5 retaining a disc at that time?

6 MR. LINK: I'm going -- the way you
7 phrased the question, I'm going to object to
8 the form and instruct him not to answer it.

9 MR. CASSELL: What's the basis for the
10 instruction not to answer?

11 MR. LINK: Do you have any reason to
12 forget?

13 MR. CASSELL: Yes.

14 MR. LINK: I'm going to instruct him not
15 to answer the question.

16 MR. CASSELL: On what basis?

17 MR. LINK: Because essentially it's the
18 same thing as, Are you lying? Do you have a
19 specific reason to forget? It's argumentive
20 and it exceeds the scope of the bankruptcy
21 order.

22 MR. CASSELL: Let's go through this. I
23 didn't know that an argumentive question was
24 the basis for an objection in this proceeding.
25 Is that your position?

1 MR. LINK: No. I'm just articulating all
2 the reasons I thought the question didn't make
3 sense.

4 In essence, what I'm not going to allow
5 you to do is to ask questions about are you
6 lying? are you slanting? are you
7 intentionally forgetting? are you biased?
8 are you skewed? which has been 90 percent of
9 what you have tried to do.

10 So you can frame them different ways,
11 but it's the same result, and so I'm
12 instructing him not to answer.

13 BY MR. CASSELL:

14 Q Mr. Epstein, about one minute ago you said
15 that something that happened eight years ago would be
16 difficult for you to remember.

17 MR. LINK: That is not what he said.

18 THE WITNESS: That is not what I said.

19 MR. CASSELL: Would the court reporter
20 read back the answer that Mr. Epstein gave
21 approximately two minutes ago.

22 (Thereupon, the requested portion of the
23 record was read back by the reporter as
24 above duly recorded.) cast

25

1 BY MR. CASSELL:

2 Q Sir, do you recall the answer that you just
3 gave two minutes ago?

4 A Yes.

5 Q And you indicated that it dealt with
6 something that was not indicated with specificity, I
7 think was the word you used.

8 A That's correct.

9 Q If we focus in on information related to my
10 client L.M., do you remember anything from eight years
11 ago regarding documents associated with L.M. that
12 Fowler White might have been retaining?

13 MR. IANNO: Object to the form. Outside
14 the scope of the contempt proceedings, and
15 overbroad.

16 MR. CASSELL: I don't understand how
17 something could be outside of the contempt
18 proceedings if I'm following up on a question
19 that -- the answer gave two minutes ago.

20 MR. IANNO: That's not your question,
21 Mr. Cassell.

22 I'm kind of offended that there's five
23 lawyers in this room on a Saturday morning,
24 a court reporter, a videographer, and we're
25 wasting time about -- talking about issues

1 that have nothing to do with the bankruptcy
2 proceeding. But go forward.

3 MR. LINK: Will you ask the question
4 again, please?

5 BY MR. CASSELL:

6 Q Do you have any reason to recall
7 information -- sorry.

8 Do you have any reason to recall
9 information about my client L.M.?

10 MR. LINK: Generally?

11 THE WITNESS: Yes, I do. I have
12 tremendous information about your client.

13 MR. IANNO: What does that have to do --

14 MR. LINK: Ask your next question. He
15 says he has tremendous information about your
16 client.

17 MR. CASSELL: I'm sorry. Could you --

18 MR. LINK: He has tremendous information
19 about your client.

20 BY MR. CASSELL:

21 Q What information do you have that you learned
22 from the -- actually, let me rephrase that.

23 Any information that might cause her
24 emotional distress?

25 MR. LINK: Can you say that question

1 **A** Sorry. Five?

2 **Q** Yes.

3 MR. LINK: Mr. Epstein, you heard his
4 question. When you saw it. I don't want you
5 to talk about if you discussed it, any
6 communication with lawyers.

7 THE WITNESS: Just today is my best
8 recollection.

9 BY MR. SCAROLA:

10 **Q** When is the first time you learned of the
11 existence of this order?

12 **A** I don't remember.

13 **Q** Did you learn of the existence of this order
14 at any time prior to February of 2018?

15 **A** I don't recall. Sorry.

16 **Q** When is the most recent time that -- the most
17 recent time prior to today that you learned of the
18 existence of this order?

19 **A** I think just today is the best of my
20 recollection.

21 **Q** So you had no knowledge that this order
22 existed at any time before today. Is that your
23 testimony?

24 **A** No. I said I don't remember. I don't
25 recall.

1 Q So you may or may not have learned of the
2 existence of this order sometime prior to today. You
3 don't have a recollection of that. Is that your
4 testimony?

5 MR. LINK: Hold on one second. So as I
6 instructed you before, so you know, I don't
7 want you to share communications with your
8 lawyers. If you have independent information
9 or knowledge, then you can answer it.

10 MR. SCAROLA: And it is our position that
11 knowledge gained from Mr. Epstein's attorneys
12 about the existence of an order that expressly
13 relates to Mr. Epstein is not a privileged
14 communication in any respect at all in light of
15 the fact that the order requires action on
16 Mr. Epstein's part.

17 So are you instructing --

18 MR. LINK: The word only requires action
19 on Mr. Epstein's part. But if he had the
20 disc -- which he has testified he didn't have
21 the disc -- so there's no action required by
22 the order, Mr. Scarola.

23 MR. SCAROLA: That is not -- that is not
24 accurate, but we don't need to argue about
25 that.

1 MR. LINK: I agree.

2 MR. SCAROLA: Are you instructing him not
3 to answer the question as phrased?

4 MR. LINK: No. I gave him the instruction
5 not to divulge attorney-client privilege
6 communication.

7 BY MR. SCAROLA:

8 Q Did any lawyer ever tell you that there was
9 an order entered by the court that restricted your
10 ability to retain information regarding emails?

11 MR. LINK: I am going to object to your
12 statement. That is not what the order says,
13 and I am going to instruct you not to disclose
14 communications with lawyers.

15 BY MR. SCAROLA:

16 Q This order reads, "Should it be determined
17 that Fowler White or Epstein retained images or copies
18 of the subject documents" -- referring to documents
19 that were delivered in electronic form to Fowler White
20 -- "on its computer or otherwise, the court retains
21 jurisdiction to award sanctions in favor of Farmer,
22 Brad Edwards or his client."

23 Do you see where that provision is
24 included in the order?

25 MR. LINK: You may look at the

1 provision --

2 But I object to -- you added words to
3 the sentence, Mr. Scarola.

4 But you may look --

5 BY MR. SCAROLA:

6 Q Let me read the sentence exactly as it
7 appears in the order. "Should it be determined that
8 Fowler White or Epstein retained images or copies of
9 the subject documents on its computer or otherwise, the
10 Court retains jurisdiction to award sanctions in favor
11 of Farmer, Brad Edwards or his client."

12 Did I read that sentence accurately?

13 A Yes, sir.

14 Q Have you ever done anything up to today, as
15 you sit here right now, to determine whether you are or
16 are not in compliance with that order?

17 MR. LINK: So I'm going to instruct you
18 not to answer that question as he phrased it.

19 MR. SCAROLA: I have no further questions.

20 MR. LINK: We will read and not waive.

21 THE VIDEOGRAPHER: Going off the record.
22 The time is 12:10 p.m. this marks the end of
23 the deposition.

24 (The deposition was concluded
25 at 12:10 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
 : SS
COUNTY OF PALM BEACH)

I, the undersigned authority, certify that
JEFFREY EPSTEIN personally appeared before me and was
duly sworn.

WITNESS my hand and official seal this 19th
day of October, 2018.

Sonja D. Hall
Commission No.: GG 168652
Notary Public - State of Florida
My Commission Expires: 2-01-22

1 REPORTER'S DEPOSITION CERTIFICATE

2
3 STATE OF FLORIDA)
4 : SS
5 COUNTY OF PALM BEACH)

6 I, SONJA D. HALL, certify that I was
7 authorized to and did stenographically report the
8 deposition of JEFFREY EPSTEIN; that a review of the
9 transcript was requested; and that the transcript is a
10 true and complete record of my stenographic notes.

11 I further certify that on the 19th day of
12 October, 2018, I notified SCOTT J. LINK, ESQUIRE that
13 the deposition of JEFFREY EPSTEIN was ready for
14 reading and signing by the witness.

15 I further certify that I am not a relative,
16 employee, attorney, or counsel of any of the parties,
17 nor am I a relative or employee of any of the parties'
18 attorney or counsel connected with the action, nor am
19 I financially interested in the action.

20 Dated this 19th day of October, 2018.

21 _____
22 SONJA D. HALL
23
24
25

1 TO: JEFFREY EPSTEIN
2 c/o SCOTT J. LINK, ESQUIRE
3 LINK & ROCKENBACH, P.A.
4 1555 Palm Beach Lakes Boulevard, Suite 301
5 West Palm Beach, FL 33401

6
7 RE: JEFFREY EPSTEIN vs. SCOTT ROTHSTEIN,
8 INDIVIDUALLY; BRADLEY EDWARDS, INDIVIDUALLY

9
10 At the conclusion of your deposition given
11 in the above-styled cause you indicated you wished to
12 read and sign the transcript.

13
14 This letter is to advise you that your
15 deposition is ready, and we ask that you call our
16 office at (561) 471-2995 at your earliest convenience
17 for an appointment to come in.

18
19 If you are a party in this action and your
20 attorney has ordered a copy of this transcript, you
21 may wish to read his copy and forward to us a
22 photostatic copy of your signed correction sheet.

23
24 It is necessary that you do this as soon as
25 possible, since the transcript cannot be held beyond
two weeks from the date of this letter.

If you have any reason which you would like
for me to place on your deposition as to your failure
to sign the same, please advise.

Thank you for your prompt attention.

Very truly yours,
PALM BEACH REPORTING SERVICE, INC.
1665 Palm Beach Lakes Blvd.,
Suite 1001
West Palm Beach, Florida 33401

BY: SONJA D. HALL

Date: October 19th, 2018

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CORRECTION SHEET:

NAME: JEFFREY EPSTEIN
RE: JEFFREY EPSTEIN vs. SCOTT ROTHSTEIN,
INDIVIDUALLY; BRADLEY EDWARDS, INDIVIDUALLY

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter held on October 13th, 2018:

PAGE(S) LINE(S) SHOULD READ

SIGNATURE: _____

DATE: _____