

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually, and
L.M., individually,

Defendant,

**MOTION TO PERMIT BRADLEY J. EDWARDS TO TAKE THE LIMITED
DEPOSITION OF JEFFREY EPSTEIN**

Bradley J. Edwards, by and through undersigned counsel, and pursuant to this Court's Order on Motion to Reconfirm Existing Pretrial Deadlines dated November 27, 2017, hereby files this Motion to Permit Bradley J. Edwards to Take the Limited Deposition of Jeffrey Epstein, and as grounds therefor states as follows:

The March 8, 2018 State Court Hearing

1. In early March 2018, only days before the expected trial date, Epstein designated 700+ new trial exhibits in this case. Included in that disclosure were at least 49 e-mail communications that had been listed on Edwards' privilege log since 2011 and which had never been produced in this case. The e-mails were derived from a disc possessed by Epstein's former counsel, Fowler White.

2. At the March 8, 2018 hearing, the Court orally ruled that all new exhibits were stricken and that Epstein is “prohibited from making any use of the 724 late-disclosed exhibits.” 3/8/18 Afternoon Session Tr. at 59:15-21.¹

3. During the hearing, it was revealed that Epstein (as a party) had already received copies of at least some of the privileged materials, and Edwards raised his concern that Epstein may seek to improperly use his knowledge of Edwards’ privileged materials through his own testimony at trial. See 3/8/18 Aft. Tr. at 64:14-19; 63:13-23.

4. The Court, however, made clear that its order was intended to “preclude anything coming in through the back door which wouldn’t be allowed through the front door.” 3/8/18 Aft. Tr. at 76:3-6.

5. The discs containing privileged materials and all information derived from the discs was ordered to be turned over to the Court and sealed or destroyed. While representations have been made by counsel regarding Epstein’s compliance with that directive, Epstein has not himself confirmed compliance nor provided any sworn testimony regarding his knowledge of, possession, dissemination or use of the privileged documents or information derived from the documents.

The April 13, 2018 Bankruptcy Court Hearing

6. On April 13, 2018, a hearing was held before Judge Ray concerning Fowler White and Epstein’s improper retention of the disc at issue, which Edwards contends is in violation of Judge Ray’s Order dated November 30, 2011. At the hearing, Judge Ray permitted certain discovery to take place to determine the scope of the violation of that court’s order, including the taking of Epstein’s deposition.

¹ The Court recognized that the privileged materials at issue were likely subject to an order from Judge Raymond B. Ray of the Bankruptcy Court for the Southern District of Florida. 3/8/18 Afternoon Session Tr. at 52:6-19; 54:9-20.

7. Pursuant to Judge Ray's Order, Edwards is permitted to depose Epstein in Palm Beach County concerning Epstein's knowledge of Fowler White's retention of the *disc* at issue. This line of inquiry includes whether Epstein had *possession of the disc* at any point prior to February 2018, when his trial counsel first learned of its contents.

Edwards' Request to Depose Epstein

8. Epstein will soon be in Palm Beach County for a deposition in the Bankruptcy Court proceeding concerning whether he possessed the Fowler White *disc* in violation of that court's order.

9. Edwards also seeks to depose Epstein in this case concerning Epstein's knowledge, use, possession and distribution of the *privileged materials*, whether via disc or electronic copy, which this Court has ruled may not be used in any way by Epstein at the upcoming trial. In addition, Edwards seeks to confirm Epstein's knowledge of Judge Ray's Order and the timing of when he first acquired that knowledge. In recent filings, Epstein has again conceded to having received and reviewed at least some e-mails listed on Edwards' privilege log prior to the March 8th hearing. See 3/23/18 Epstein's Notice of Compliance with Court Rulings at p. 2. Although Epstein's trial counsel ordered its client to comply with the Court's confidentiality order by "destroy[ing] all hard copies and electronic versions of the documents obtained from the [Fowler White] disc," there is no indication that Epstein has complied with this instruction. See id.

10. Edwards therefore seeks to depose Epstein to determine the extent of his review of Edwards' privileged materials, the timing of that review, the identity of all persons with whom Epstein shared the privileged materials or its contents, as well as all other topics reasonably necessary to allow Edwards to identify and object to at trial all attempts by Epstein to utilize Edwards' privileged materials in violation of this Court's March 8, 2018 ruling. Edwards further

seeks to confirm that Epstein has in fact destroyed all copies of these materials, as ordered by the Court at the March 8th hearing. Discovery of this limited nature is necessary to ensure that this Court's order precluding "anything coming in through the back door that wouldn't be allowed through the front" is enforced.

11. Edwards recognizes that, on November 27, 2017, this Court entered its Order on Motion to Reconfirm Existing Pretrial Deadlines, in which it ordered that wholesale additional discovery would not be permitted and that individual discovery requests may be allowed on a matter by matter basis, but only if the discovery requests are impacted by the Court's rulings on certain motions currently pending to be heard.

12. Edwards concedes that this individual discovery request was not impacted by the Court's ruling on any motion that was pending at the time the Order on Motion to Reconfirm Existing Pretrial Deadlines was entered, but submits that the need for this discovery arose out of the recent events previous described and that there is no undue prejudice to Epstein to permit this limited discovery because it was Epstein's actions in violating this Court's pre-trial order concerning the timeliness of exhibit disclosures (as well as his violation of Judge Ray's Order concerning the retention and possession of the privileged materials at issue), which necessitated the need for the limited discovery sought herein outside of the discovery deadline.

WHEREFORE, Counter-Plaintiff, Bradley J. Edwards, respectfully requests that the Court enter an Order granting this Motion to Permit Bradley J. Edwards to Take the Limited Deposition of Jeffrey Epstein, as well as awarding any such further relief as the Court deems just and proper given the circumstances.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 16th day of April, 2017.

/s/ David P. Vitale Jr.

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