

EXHIBIT C

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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.

TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: Thursday, March 8th, 2018
TIME: 1:30 p.m. - 4:50 p.m.
PLACE: 205 N. Dixie Highway, Room 10D
West Palm Beach, Florida
BEFORE: Donald Hafele, Presiding Judge

This cause came on to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

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P R O C E E D I N G S

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THE COURT: Thank you. Welcome back everybody. Have a seat.

MR. SCAROLA: May I move to this podium now?

THE COURT: Sure.

MR. SCAROLA: Thank you, sir.

Your Honor, have we decided what motions we're going to hear?

THE COURT: Yes. My understanding as I left was going to be Edwards' Second Supplement to Motion in Limine Addressing Scope of Admissible Evidence, and of course in that same vein Epstein's Notice of Service of Unredacted Appendix in Support -- or Response in Opposition to Edwards' Second Supplemental Motion in Limine addressing Scope of Admissible Evidence.

MR. SCAROLA: Your Honor, there are actually multiple submissions to the Court to deal with closely-related issues, and those issues arise out of the fact that over the course of the last three weeks 724 new exhibits have been added to the exhibit list of the defendant Epstein.

And just to provide some general background, some of which your Honor may recall, there was an

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exhibit list filed by Mr. Epstein on November 16, 2017. That same exhibit list was attached to the pretrial stipulation on December 22, 2017. And then for the first time on March 5th of 2018 the new exhibit list was filed. If you compare the exhibit lists of November 16th and December 22nd, which, as I said, are the same, with the March 5th exhibit list, 25 new exhibits -- excuse me -- 724 new exhibits were added.

Your Honor held a hearing in this matter on December 5th and made it clear to all parties that exhibits that were not disclosed by the end of December -- and I think it may have been the December 22 date -- I'm not sure about that exact date -- but exhibits that were not specifically disclosed would not be permitted to be used at trial. You made it clear that catchall listings would be unacceptable; that specific individual exhibits needed to be listed. I'm sure your Honor has a recollection of those circumstances. And that, obviously, is a fairly standard order that your Honor adheres to in connection with trial practice.

THE COURT: What I just wanted to point out is in conjunction with what we're going to be

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1 District provides us with some recent direction and
2 assistance and talks about the issue of surprise.
3 And it says, quote, "The opposing party also
4 earlier attempted to exclude the surprise testimony
5 by an unsuccessful motion in limine. Furthermore,
6 prejudice in the context of Binger refers to the
7 surprise in fact of the objecting party and is not
8 dependent upon the adverse nature of the
9 testimony." So that's where we are also going to be
10 focusing today.

11 But I don't want to get into a discussion as
12 to present counsel's ethical responsibilities
13 unless we have to as it relates to the origin of
14 how, if counsel is aware, these documents inclusive
15 of the e-mails, and particularly as it relates to
16 the 724 allegedly new exhibits being added formally
17 for the first time on March 5th, just three days
18 ago, and certainly outside of the Court's pretrial
19 order in terms of timeliness, whether they
20 constitute prejudice. So let's try to focus there,
21 if we could.

22 And I understand, just so the record is clear,
23 doing this for a long time both as a trial lawyer
24 and as a judge, I understand how feelings can be
25 hurt, I understand how people can take umbrage at

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1 certain things that are said.

2 The beauty of being an experienced trial
3 judge, if nothing else, is developing a thick skin.
4 Sometimes I'll hear people say something and use my
5 name and they don't even know I'm standing there.

6 MR. LINK: That wasn't me, was it, Judge?

7 THE COURT: No. And I understand that there
8 are going to be instances where people are going to
9 think that I'm the best in the world and the
10 absolute worst in the universe. I've come to that
11 rationale pretty quickly. It took some time, but
12 it was fairly quickly. But I do understand. I
13 don't want anyone to think that I'm not
14 compassionate to the extent that I recognize that
15 there have been accusations hurled here which may
16 be minimally considered offensive and accusatory.
17 But let's move beyond that for now and let's get to
18 some of the issues that I discussed earlier that we
19 can focus on relating to decisions that I'll have
20 to make concerning the potential admissibility of
21 this evidence.

22 MS. ROCKENBACH: Thank you, your Honor. I
23 appreciate that.

24 And we have established the chain of custody
25 through the affidavit of Tina Campbell from our

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1 office. So it is clear we did not improperly
2 obtain them, nor were they inadvertently disclosed
3 to us.

4 THE COURT: Tina Campbell is your paralegal?

5 MS. ROCKENBACH: Who obtained the three boxes,
6 the three boxes from Fowler White, which contained
7 that CD which is at issue.

8 THE COURT: I think the disconnect we're
9 having here today is not so much the fact that
10 Miss Campbell received the boxes or somebody got
11 notice that the boxes were there --

12 MS. ROCKENBACH: It was an issue.

13 THE COURT: -- and that somebody did what they
14 did. And there may have been an issue with regard
15 to Fowler White voluntarily turning them over.
16 Those are things that can be dealt with later on.
17 And again, it may be a different forum than I'm
18 even dealing with here today.

19 But what I'd like to know is how Fowler White
20 got the documentation, do we to know that, whether
21 or not that documentation was obtained or retained
22 in a manner that either was in violation of Judge
23 Ray's order or walked a certain tightrope that
24 could be construed as a constructive violation of
25 that order. And if we know that, then it would go

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1 a long way in me trying to make a determination as
2 it relates to Binger and its progeny.

3 MS. ROCKENBACH: Thank you.

4 THE COURT: So that's really where we need to
5 focus.

6 I have no problem and I don't think
7 Mr. Scarola has any problem in terms of the fact
8 that you all did your homework; albeit, from his
9 position, late in the game, and secured this
10 information from Fowler White. **the critical**
11 **question, though, is why did Fowler White have**
12 **these documents, why were they continued to be**
13 **held, and was it in violation either expressly or**
14 **constructively as it relates to Judge Ray's order?**

15 MS. ROCKENBACH: Thank you, your Honor.

16 Mr. Link has studied this issue and will address
17 that.

18 MR. LINK: So, Judge, let me see if I can
19 clarify a couple of things.

20 First, these exhibits that we're talking about
21 from the disk, they absolutely were just listed on
22 our exhibit list. They were just located by us in
23 the last week. However, on our exhibit list it's
24 always been a general category, as Mr. Scarola
25 said. The reason there are 749 specific exhibits

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1 is the clerk required it. So --

2 THE COURT: The clerk required it?

3 MR. LINK: Specific. You have got to do --

4 THE COURT: The clerk, you're saying? Or the

5 Court?

6 MR. LINK: The Court.

7 THE COURT: Oh, okay. I thought you were

8 saying --

9 MR. LINK: It's called the clerk's exhibit

10 list for the Court, but the Court did it.

11 THE COURT: So in conjunction with an order

12 that I had made earlier in the proceeding that I

13 was not going to allow general catchall types of

14 exhibit identification, I required that each and

15 every exhibit be specifically listed. And we've

16 gone through myriad exhibits in our quest to

17 determine whether or not, for example, the Fifth

18 Amendment privilege is going to be recognized and

19 other issues having to do with admissibility. And

20 that was generally followed, to my recollection,

21 because I dealt with many specifically identifiable

22 exhibits. So yes, I agree that that was something

23 that the Court had a specific interest in and has

24 always taken the position that all cards are going

25 to be on the table in a timely fashion so that,

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1 number one, first and foremost once all the cards

2 are on the table, the law favors settlement, and it

3 may come to fruition, and has more often than not

4 resulted in an amicable resolution to a case. And

5 as importantly, both sides are adequately prepared

6 so that, as I mentioned in this Pollard case, no

7 one is unduly surprised by something that comes

8 before them at or near the beginning of trial.

9 MR. LINK: Yes, sir. So that is why we did

10 that.

11 The second thing I want to point out to the

12 Court is that Mr. Edwards did the same thing and

13 filed exhibits after the order, just like we did.

14 And I'm not complaining --

15 THE COURT: Well, if you're not complaining

16 about it --

17 MR. LINK: The reason I want to explain is

18 because in our pretrial stip I'm of the mindset

19 when we reach agreement, we have an agreement. And

20 in our agreement, your court order says no

21 additional exhibits unless the parties agree. In

22 the pretrial stip Mr. Scarola and I agreed we

23 reserved our right to add additional exhibits. So

24 in compliance with the pretrial stip and this

25 Courts' order requiring us to identify them, we've

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1 been doing that, sir.

2 THE COURT: Okay.

3 MR. LINK: So we are not in violation of the

4 Court's order. Mr. Scarola and I again agreed to

5 do this.

6 **So let's talk about Fowler White because it is**

7 **as clear as mud.** It is not as clear as Mr. Scarola

8 says. Here is why. If you look at his --

9 THE COURT: That metaphor, I'm not sure I

10 understand clear as mud.

11 MR. LINK: It's not clear. That's the point.

12 It's not clear, frankly. So it is not as simple

13 and clear as Mr. Scarola says. And I want to show

14 you why.

15 **I honestly cannot tell you, I can't, where the**

16 **disk came from that end up in Fowler White's file,**

17 **I can't. We have looked for every piece of**

18 **communication, correspondence, we've gone through**

19 **their boxes three times trying to answer that**

20 **question. We have reached out to lawyers for**

21 **Fowler White. They have no memory of it.** So we,

22 like Mr. Scarola --

23 THE COURT: Excuse me. Is Mr. Ackerman still

24 actively practicing?

25 MR. LINK: He is, yes. And we reached out to

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1 Joe Ackerman. Mr. Ackerman. Sorry. We reached

2 out to Mr. Ackerman.

3 Here is why it's confusing. And I think this

4 is really important to understand what happened.

5 When the trustee took over the files, there

6 was an understanding by Mr. Edwards and his firm

7 that there would be about 5,000 e-mails, and they

8 agreed to do a -- go through them and do a

9 privilege log. What's missing from Mr. Scarola's

10 timeline is that in November 2010 Edwards informed

11 the bankruptcy court that the trustee had produced

12 74,000, 74,000 pages of documents on two compact

13 disks. Not one. On two.

14 So then what happened, because of the volume,

15 Mr. Edwards and his firm goes in and says, "Judge,

16 we need more time. We did not know we were going

17 to get 74,000 pieces of paper and we need time to

18 go through them."

19 THE COURT: I may have lost you. The 74,000

20 pages were self-generated from the Rothstein firm?

21 MR. LINK: Yes. And delivered by the trustee

22 to Mr. Edwards.

23 THE COURT: And Mr. Edwards, you're

24 suggesting, indicated that they need more time to

25 review the e-mails or whatever documents --

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1 to Fowler White, but it goes to Epstein -- and
2 constructively, if not explicitly, by this order
3 extends to Mr. Epstein's legal representatives,
4 from this Court's interpretation.

5 MR. LINK: Yes, sir.

6 THE COURT: "Should it be determined that
7 Fowler White or Epstein retained images or copies
8 of the subject documents on its computer or
9 otherwise, the Court retains jurisdiction to award
10 sanctions in favor of Farmer, Brad Edwards or his
11 client," end quote.

12 MR. LINK: And I agree with that. The
13 bankruptcy court reserved that. What I'm
14 suggesting to the Court is I don't think it's as
15 clear as Mr. Scarola said. And he may go to Judge
16 Ray and Judge Ray will have a hearing. Based on
17 what we've looked at, I don't believe it's as clear
18 that that's what they did because it's possible,
19 based upon what I've read --

20 THE COURT: That Fowler White did?

21 MR. LINK: Yes.

22 THE COURT: So are you suggesting to me
23 that -- so that I'm understanding correctly --

24 MR. LINK: Yes, sir. I'm not here
25 representing Fowler White.

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1 THE COURT: I understand. But you're here
2 representing Mr. Epstein, who by virtue of this
3 order that is being highlighted in part on the
4 ELMD, that Fowler White did what it was supposed to
5 do pursuant to that order, returned everything that
6 it was supposed to return, but through some
7 happenstance had the disk containing the very
8 information that was the source of Judge Ray's
9 order and somehow, therefore, should be exonerated
10 by virtue of the fact that because we really don't
11 know how Fowler White may have gotten it, but
12 assuming Fowler White did what it should have done,
13 miraculously this disk turns up in Fowler White's
14 files and hence we should essentially ignore the
15 dictates of the order?

16 MR. LINK: No, sir. And I think I've confused
17 the Court. Let me make sure you understand what's
18 on this disk.

19 The 27,550 pages on this disk, we've only
20 looked at 5,000 of them, okay? Of those 5,000, I
21 will represent to you -- and you can look at
22 them -- I don't believe any -- and I know none that
23 we attached -- were communications between an
24 attorney and a client.

25 I asked Mr. Cassell and I asked Mr. Scarola to

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1 identify by Bates number if there are any
2 attorney/client communications and we would
3 segregate them. The response I got, every page is
4 an attorney/client communication. So that's one.

5 THE COURT: But that's not what this order
6 says, Mr. Link. The order doesn't say anything
7 about privileged documents.

8 MR. LINK: Judge, I understand that.

9 THE COURT: The order says that Fowler White
10 will not retain any copies of the documents
11 contained on the disk provided to it nor shall any
12 images or copies of said documents be retained in
13 the memory of Fowler White's copies. And we
14 already went through the sanctions.

15 MR. LINK: But we don't know -- here is the
16 disconnect: We don't know as we sit here that the
17 disk that we located there wasn't handed to them by
18 Special Master Carney after Mr. Scarola gave him
19 the job and said look at it and give them whatever
20 you think is okay because the majority of the
21 documents we've looked at have to deal with
22 scheduling and sporting events and going out
23 drinking and all kinds of things. It is not a
24 group of documents that are on the privilege log.

25 Here is the second thing we learned --

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1 THE COURT: And is that going to serve as the
2 conduit to attempt to admit these documents into
3 evidence in the face of the order that I have just
4 read?

5 MR. LINK: Your Honor, I see the order. What
6 I'm trying to get across -- I'm doing a lousy job.

7 THE COURT: No, you're not.

8 MR. LINK: -- is that I can't tell you.

9 THE COURT: Try to get to the point that I'm
10 really --

11 MR. LINK: I don't think that we can conclude
12 today that this disk is a result of their violating
13 this order. This disk could have been as a result
14 of the special master looking at it and saying, "I
15 don't see communications between attorney/client, I
16 believe there's been a waiver of the work product
17 based on giving it to Razorback, issue injection,
18 all of these issues have been raised."

19 THE COURT: So now you're suggesting that
20 former Judge Carney, to my knowledge a very well-
21 respected jurist who presided in the Circuit Court
22 in Broward County, to my knowledge, and has done
23 senior work here in the 15th Judicial Circuit
24 somehow engaged in some type of ex parte
25 communications with Fowler White?

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1 MR. LINK: Judge, I can't because I've looked.
2 I have searched. I'm not saying that at all. All
3 I can piece together is that Mr. Scarola asked
4 Special Master Carney to do that.

5 This disk, when we got -- we put a sticker on
6 it. We went and looked at boxes and put stickers
7 on things. The disk said Epstein Bates stamp. Had
8 no idea what was on it. Looked like something we
9 should put a sticker on. It came in, the disk, and
10 we started looking at it.

11 When these issues came up, we asked Fowler
12 White to please give us the original boxes. We got
13 the original boxes and found the disk in a folder
14 that says J. Carney printing on it. That's it.
15 That's all that's on this folder.

16 There's no watermarks, there's no
17 confidentiality agreement, there's no stamps on the
18 documents. They are Bates stamped and there's a
19 disk in there. So what I'm suggesting is if we're
20 trying to figure out whether Fowler White violated
21 the order, I don't think it's as clear as
22 Mr. Scarola says.

23 Now, I wasn't there. I can't tell you what
24 they did, Judge. But I do know this: Many of the
25 documents that are on this disk and that are on

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1 their privilege log have been used in this
2 litigation. They have been used. They have
3 produced some. They're exhibits that Mr. Edwards
4 has asked about and answered that are on this
5 privilege log. There's over a hundred of them.

6 So this disk is not a disk of their privileged
7 documents. It's a disk of 27,500 documents. And
8 what's the most important part of this is Judge
9 Crow never held an in-camera. Nobody judicially
10 has looked at these. And that's where we need to
11 be.

12 I don't think any of this matters. What
13 matters is we have the records, they're relevant,
14 this Court should determine they're relevant, see
15 if there's a privilege and see if that privilege
16 has been waived. That should be the process.

17 THE COURT: On Thursday afternoon, which is
18 going to be taken up by additional argument, where
19 Friday I'm a committed member to the Bench Bar, as
20 is encouraged not only by the 15th Judicial Circuit
21 and Fourth District Court of Appeal but also by our
22 local Bar Association, of which many of you are
23 prominent members here, so you know that commitment
24 must be taken seriously, and I do take it
25 seriously, and then Friday I'm booked up with

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1 hearings on other matters of the 14- to 15 hundred
2 files that I'm carrying in this division, of which
3 this is but one, with the trial to commence on the
4 morning of Tuesday, the 13th of March.

5 MR. LINK: Yes, sir.

6 THE COURT: That's a big endeavor. That is an
7 endeavor that is beyond this Court's ability
8 physically and from a time perspective. So I'm not
9 going to do that.

10 MR. LINK: Your Honor, I know that you don't
11 have the time. I have offered them a special
12 master. They don't want to.

13 THE COURT: It's just too late.

14 MR. LINK: But Judge, the truth is never too
15 late.

16 THE COURT: Please don't interrupt me.

17 MR. LINK: I apologize for that.

18 THE COURT: Protocol dictates the orderly
19 administration of justice and, correspondingly, the
20 orderly preparation for trial. That preparation --
21 and you'll be surprised when it comes to larger
22 cases like this -- not only applies to counsel and
23 their team of attorneys that the respective side
24 have, but it also applies to the singular
25 individual who is responsible for this orderly

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1 presentation.

2 I often refer to a case that I printed
3 directly from the Fourth District Court of Appeal,
4 RJ Reynolds Tobacco Company versus Calloway, and it
5 talks about the trial judge's ultimate
6 responsibility. There it was to ensure appropriate
7 attorney behavior, but it talks also about court
8 exercising its control of the litigation of the
9 trial, of important pretrial hearings like we're
10 having here today, and talks about this is
11 especially true in lengthy high-stakes cases and
12 goes on to speak about what a court should and
13 should not tolerate when it comes to interruptions
14 and other matters that don't necessarily befit the
15 presentation of otherwise excellent counsel.

16 But what I was trying to communicate while we
17 were speaking over each other is that this is the
18 very reason why courts have spoken to the issue of
19 timely and reasonableness and preparation.

20 I can't speak to the matter in which this case
21 has been prepared by counsel for Mr. Epstein over
22 the last 3,000 and some odd days. I can, however,
23 speak to what is before me now. Why someone before
24 you and Miss Rockenbach got involved in this
25 case -- because I saw Mr. Ackerman's name in this

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1 As I said, the analysis would be completely
2 different if it was shown to me that somehow, some
3 way the Searcy, Denney firm, Mr. Edwards, Farmer
4 Jaffe -- I was going to say Ron Rothstein, but I
5 don't want to get him confused with the well-
6 respected coach and former coach of the Heat --
7 Scott Rothstein was sitting on this stuff. That's
8 not what happened here. That's the point that I'm
9 trying to drive home and emphasize. Is not only
10 the issue of timeliness, not only the issue of the
11 privilege has not been tested, but first and
12 foremost is the fact that Fowler White, Epstein's
13 own lawyers, have been sitting on this from day one
14 for seven, eight years.

15 MR. LINK: But we don't know -- the point I'm
16 trying to make, I don't know that they looked at
17 it.

18 THE COURT: That's not my problem.

19 MR. LINK: Maybe Carney gave it to them and
20 said, "Don't look."

21 THE COURT: That's not my problem. If
22 Mr. Epstein has a case against his attorneys, he
23 can deal with those claims to his satisfaction.
24 I'm not here to determine whether or not someone
25 did or did not commit malpractice.

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1 MR. LINK: I understand that, Judge.

2 THE COURT: I'm here only to deal with this
3 issue that is before me; and that is, whether a
4 wholesale late disclosure of significant exhibits
5 that have been in the possession of Fowler White,
6 Epstein's attorneys, from day one and, thus, as a
7 matter of continuum in Epstein's possession, his
8 possession is constructive to the possession of the
9 attorneys that represented him, that string of
10 attorneys that have been representing him since
11 2010, and that if nobody got around to looking at
12 Fowler White's documents -- and how that could be
13 understood is beyond me, as not only a seasoned
14 attorney but also now a seasoned judge -- until you
15 and Miss Rockenbach took it upon yourselves and
16 your paralegal to do it is not my problem. And
17 that's all I'll say on the subject.

18 I have made my ruling. It is a several-
19 pronged ruling. And for the reasons that I've
20 stated, that's the reason why I am not going to
21 engage in some type of a last-minute evaluation of
22 documents that could have been evaluated from 2010
23 all the way to March of 2018.

24 But nobody ever took it upon themselves to
25 even look at those documents in Fowler White's

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1 file. How that could be the case, who knows? But
2 I'm not finding fault with anything you or
3 Miss Rockenbach or Miss Campbell did. That's not
4 the issue. You've done your job.

5 MR. LINK: I understand. Your Honor, may I
6 have one minute to confer with appellate counsel to
7 make sure there's nothing I need to do to preserve
8 this?

9 THE COURT: Absolutely. Let's just take a
10 brief recess.

11 (Thereupon, a short recess was taken.)

12 - - -

13 THE COURT: All right. Thank you again.
14 Please have a seat. Welcome back.

15 MR. SCAROLA: Your Honor, I want to hopefully
16 tie up a few loose ends on the matter that has just
17 been ruled on.

18 Am I correct in understanding that the
19 defendant is prohibited from making any use of the
20 724 late-disclosed exhibits?

21 THE COURT: Yes.

22 MR. SCAROLA: Next, sir, we would request the
23 defendant be required to relinquish possession of
24 all copies of the privileged documents to the Court
25 under seal. They have expressed some concern

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1 stating that we have asked them to destroy them.
2 We want them turned over to the Court under seal.
3 They should no longer have possession of those
4 until such time as somebody rules that they are
5 entitled to have possession.

6 And I want to make one brief comment about
7 that, if I could can.

8 **Your Honor knows very well that Fowler White**
9 **is a very large law firm that keeps meticulous time**
10 **records with regard to the services that they**
11 **render. And the concept that it is impossible to**
12 **reconstruct through those time records what was**
13 **received, when it was received, when it was**
14 **reviewed, what happened with it, who was informed**
15 **of what was happening with it quite frankly is**
16 **absolutely inconceivable to me; that a law firm of**
17 **that size, keeping records the way it did, cannot**
18 **reconstruct what went on with regard to this**
19 **information.**

20 **THE COURT: And that's a good point. What I**
21 **was going to point out earlier and I failed to do**
22 **that, and I appreciate the reminder, is that I**
23 **would have expected certainly in deference to the**
24 **fact that Mr. Epstein was a client of Fowler White**
25 **that someone from Fowler White would have had the**

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1 ability to weigh in somehow as to these critical
2 issues.
3 Perhaps I'm being a bit naive when I say that
4 having served Mr. Epstein in their capacity as
5 counsel, it's my respectful belief that they owed
6 an obligation to Mr. Epstein, if not this Court, to
7 explain how and why they had access and kept these
8 records in their possession in light of that court
9 order and in light of this ongoing litigation. And
10 as a matter of respect to Mr. Epstein and his
11 ongoing legal team, to have made some type of
12 affirmative steps to have dealt with this issue
13 head on because of the apparent implications of
14 same.

15 So I again want to make clear that I'm finding
16 absolutely no fault with Mr. Link, Miss Rockenbach,
17 Miss Campbell or anyone else from the Link and
18 Rockenbach firm in terms of what they did, albeit
19 in the manner in which they had to do it and the
20 timing, unfortunately, of the matter from their
21 perspective in having to do it, but that takes
22 nothing away from what the Court has already
23 remarked upon concerning the fact that now Fowler
24 White in the representation of Mr. Epstein had
25 these records from the inception is one of the

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1 reasons for the Court's ruling.

2 MR. SCAROLA: Your Honor, may we include in
3 the order a direction that opposing counsel is
4 required to relinquish possession of all copies of
5 the privileged documents to the Court under seal?

6 THE COURT: Well, the only thing that
7 obviously has to be taken into consideration is the
8 appellate rights of Mr. Epstein and how they're
9 going to preserve those rights in light of the fact
10 that the Court has rejected the last minute request
11 for in-camera inspection for the reasons that I've
12 already stated at length on the record.

13 MR. SCAROLA: Which is why I've suggested that
14 they be relinquished to the Court under seal, your
15 Honor. They can be given an exhibit number. To
16 the extent that the appellate court finds it
17 reasonable and necessary to examine those
18 documents, the appellate court will have the
19 opportunity to do that.

20 THE COURT: So you're suggesting to file with
21 the Clerk of Court under seal the documents at
22 issue?

23 MR. SCAROLA: Yes, sir, that's correct.

24 THE COURT: That's better stated.

25 Do you have any objection?

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1 MS. ROCKENBACH: No objection, your Honor.

2 THE COURT: So stipulated.

3 MR. SCAROLA: Your Honor will recall that
4 opposing counsel has also informed the Court on
5 multiple occasions that backup in the preparation
6 for this case was being provided by the Gunster law
7 firm, and we would like a certification from them
8 as well that no copies have been retained.

9 MR. LINK: They don't have any, Judge.

10 THE COURT: Okay. That's fine. If Mr. Link
11 and Miss Rockenbach are representing that to the
12 Court, I'm satisfied with that representation.

13 MR. SCAROLA: And I accept that representation
14 as well, your Honor, but what we would like and
15 believe we are entitled to is a list of all persons
16 to whom the privileged documents have been
17 disseminated. And I'm particularly concerned in
18 this regard; that the testimony of any witness
19 might be influenced by their improper exposure to
20 privileged documents. So we ask that a complete
21 list of all persons to whom those documents have
22 been disseminated or the contents of the documents
23 that been disseminated be provided to us.

24 And I know that Mr. Cassell has some concerns
25 in that regard as well that he would like to

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1 address with the Court. So if he may have an
2 opportunity to speak to the Court in this regard --

3 THE COURT: That's fine.

4 Mr. Link, if you want to comment on that?

5 MR. LINK: Yeah. I think I can solve that
6 problem very easily, your Honor.

7 **The documents were within my law firm, and my**
8 **client. That's it.** They haven't been shown to any
9 third parties. There's not a third-party witness
10 for me to put on the stand. And you have ruled we
11 can't use them. We won't use them.

12 MR. SCAROLA: Does that include Mr. Epstein?

13 THE COURT: Does what include Mr. Epstein?

14 **MR. SCAROLA: Has Mr. Epstein been provided**
15 **with copies of the documents or the contents of**
16 **these privileged documents?**

17 **MR. LINK: I just said my client. My law firm**
18 **and my client. And I can say legal counsel,**
19 **Mr. Goldberger. So that's it.**

20 MR. SCAROLA: That may require some further
21 relief that we can address at another time.

22 And so that the record is clear, your Honor,
23 we believe that sanctionable conduct has occurred,
24 and we are reserving the right at a later time --
25 but it's not something that needs to be addressed

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1 Epstein entities came into possession of the
2 documents, and then we want to know where they
3 went.

4 THE COURT: Because of the court ruling, I
5 don't find that to be a front burner issue at this
6 time. Please don't confuse anyone here. The
7 Court's reference to front burner as opposed to
8 being an issue of importance. Front burner simply
9 means that in preparation for a trial that is
10 actually a mere two to three business days away, if
11 you count tomorrow, which I don't really count as a
12 court business day because of my obligations to the
13 Bench Bar Conference, I won't have the opportunity
14 to really delve into that prior to trial.

15 And as Mr. Scarola pointed out, I believe,
16 earlier, that can be done at another time. So I am
17 certainly not going to forget that it needs to be
18 done. But it will be ordered that it be done post
19 trial.

20 Any other remedies that are sought as you go
21 along -- I understand the relative late nature of
22 these revelations; hence, you are not precluded
23 from filing a supplemental motion.

24 I also note that you have requested attorney's
25 fees and costs related to this endeavor, and I'm

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1 reserving on that as well.

2 MR. CASSELL: But related to that is the
3 distribution. The cat is now wandering out of the
4 bag, so time is of the essence.

5 THE COURT: Right. And again, I think that in
6 an abundance of caution, and I understand your
7 concerns, but what the attorneys here recognize --
8 and Mr. Epstein is also under this order -- is that
9 no further dissemination is going to be made. I
10 think that goes without saying as far as the
11 attorneys are concerned. I've known each of them
12 seated at counsel table for many years, as I have
13 known Mr. Scarola and Miss Terry, Mr. Burlington,
14 and I think they recognize that when this Court
15 makes a statement, that it is abundantly clear that
16 it will be enforced to the letter. I have no doubt
17 in my mind that they will all be respectful of the
18 court order of non-dissemination of any of those
19 documents hence forth.

20 And Mr. Link has already represented to the
21 Court that other than Mr. Epstein and his
22 co-counsel, that there have been no eyes laid upon
23 these documents. Hence, I'm accepting that
24 representation, as Mr. Scarola has accepted those
25 representations during the hearing as well.

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1 MR. CASSELL: We haven't heard, of course,
2 from Fowler White. Will the Court direct them to
3 make similar representations?

4 THE COURT: I believe that I have sufficient
5 authority to do that under these relatively
6 peculiar circumstances. My jurisdiction, though,
7 is somewhat limited because they have withdrawn
8 from the case.

9 As a general blanket order I would simply say
10 that all attorneys who have or are representing Mr.
11 Epstein shall be subject to this order of
12 confidentiality, of sealing and of non-
13 dissemination of any such information that is
14 contemplated in any of the documents that are part
15 of the umbrella order of Judge Ray. And that would
16 include all of the exhibits that we spoke about
17 today and that have been filed as a matter of
18 record.

19 MR. CASSELL: Could they also be directed to
20 make a representation as to who they have
21 distributed the documents to?

22 THE COURT: Mr. Link has already -- are you
23 talking about Fowler White?

24 MR. CASSELL: Fowler White.

25 THE COURT: I don't think that I have that

1 ability.

2 MR. CASSELL: Could I be heard on that issue
3 then? I believe that you do have -- all right.
4 We'll deal with that later then, your Honor.

5 MR. LINK: Can I make a suggestion, your
6 Honor, that might be helpful?

7 THE COURT: Sure.

8 MR. LINK: We now have, I think, 34 or 36
9 boxes they delivered; I believe all the boxes they
10 have. The disk, the original disk, we now have it.
11 I don't know for sure, but I doubt that there's
12 another disk that they made and kept. If the Court
13 will instruct as part of this order that we
14 maintain the boxes, because Fowler White wanted
15 them back, then we will take possession of the
16 boxes.

17 THE COURT: If you are telling me that you
18 have authority from Mr. Epstein to retain those
19 boxes and Mr. Epstein is essentially giving you
20 carte blanche, you and Miss Rockenbach and
21 Mr. Goldberger jointly, the authority to make any
22 decisions necessary to protect his interests, that
23 motion would be granted.

24 MR. LINK: I'm standing here with this puzzled
25 look because I'm not sure what that means, frankly.

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