

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

Case No. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff,

vs.

SCOTT ROTHSTEIN, individually,  
BRADLEY EDWARDS, individually,

Defendants/Counter-Plaintiffs.

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TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: Wednesday, September 6th, 2017  
TIME: 8:54 a.m. - 9:09 a.m.  
PLACE 205 N. Dixie Highway, Room 10C  
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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APPEARANCES:

For Plaintiff:

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

For Jeffrey Epstein:

W. CHESTER BREWER, JR., P.A.  
250 S. Australian Avenue, Suite 33401  
West Palm Beach, FL 33401  
By W. CHESTER BREWER, JR., P.A., ESQUIRE

For Defendants:

TONJA HADDAD, P.A.  
315 S.E. 7th Street, Suite 301  
Fort Lauderdale, FL 33301  
By TONJA HADDAD COLEMAN, ESQUIRE

1 THE COURT: Mr. Scarola, Ms. Haddad,  
2 Mr. Brewer.

3 MR. BREWER: Good Morning, Your Honor.

4 MS. HADDAD: Good morning.

5 THE COURT: I think I have seen it  
6 before. Please make sure you send in  
7 materials in advance.

8 It was reset, so it might have created  
9 a little bit of a problem.

10 MS. HADDAD: Your Honor, this was sent  
11 to your office -- I have a copy of the  
12 letter right here -- on August 28th.

13 THE COURT: Again, I don't have it here  
14 in front of me, but don't worry about it.

15 MR. SCAROLA: It is only a motion to  
16 set a hearing, Your Honor.

17 THE COURT: That's fine. Not the end  
18 of the world.

19 So this is a motion for summary  
20 judgment; is that correct?

21 MR. BREWER: Yes, Your Honor.

22 MS. HADDAD: Yes, Judge.

23 THE COURT: How much time you think we  
24 are going to need?

25 MR. BREWER: We anticipate about an

1 hour, Your Honor.

2 THE COURT: Mr. Scarola, any thoughts?

3 MR. SCAROLA: Your Honor, this is a  
4 renewed motion for summary judgment.

5 Your Honor may recall a motion for  
6 summary judgment was heard before Your  
7 Honor. Your Honor granted the motion for  
8 summary judgment. There was an appellate  
9 review of that ruling and a reversal sending  
10 the case back.

11 As a consequence we believe the hearing  
12 will not take very long at all, because  
13 there are procedural issues that will  
14 preclude reraising the arguments that have  
15 been raised in this motion.

16 Nonetheless, I think that setting an  
17 hour aside is not unreasonable.

18 THE COURT: What is the motion based  
19 on? We went through the issue of malicious  
20 prosecution and abuse of process.

21 I believe the only remaining claim,  
22 then, is a malicious prosecution claim,  
23 correct?

24 MS. HADDAD: Yes, Judge. The only  
25 remaining claim is malicious prosecution.

1 And the Court granted the motion solely --

2 THE COURT: I remember. And the Fourth  
3 District was quite kind, perhaps to  
4 alleviate some of the appellate's concerns  
5 regarding whether or not the law was  
6 properly followed. And Judge Warner wrote,  
7 what I thought to be a very complimentary  
8 opinion regarding the following of the law  
9 by the Court.

10 Ultimately that case -- the Fabricant  
11 case, which was Judge Blanc's case -- went  
12 up on conflict review to the Florida Supreme  
13 Court, and they followed the Fourth District  
14 Court of Appeal's position.

15 So just for the record, I recognize and  
16 remember the entire history, at least to the  
17 extent indicated.

18 MS. HADDAD: Thank you, Judge.

19 THE COURT: So what is the gravamen of  
20 the motion as we sit here today?

21 MS. HADDAD: The gravamen of the  
22 motion, Judge, are the grounds that were not  
23 argued at the initial motion for summary  
24 judgment, for which we asked for an hour.  
25 We believe an hour is sufficient.

1 THE COURT: So you are talking about  
2 some or all of the six or so prong analysis  
3 when malicious prosecution claim is brought?

4 MS. HADDAD: Yes, Judge. The abuse of  
5 process claim has been disposed of in our  
6 favor, and we are only moving forward to  
7 attack the elements of the malicious  
8 prosecution claim, you are correct.

9 THE COURT: All right, well, as luck  
10 will have it, next Friday is the calendar  
11 call for this coming docket. And, of  
12 course, we have no idea where we are going  
13 to be come next week. So at this stage, I  
14 don't have a problem putting you on the  
15 September 15th docket.

16 I presume we are going to be having a  
17 significant number of motions relating to  
18 this case. Is that fair?

19 MS. HADDAD: Very fair, Judge, yes.

20 MR. SCAROLA: I would disagree. But  
21 knowing the inventiveness and resources  
22 available to the opposition, it would not  
23 surprise me that an effort in that regard  
24 were made.

25 THE COURT: Mr. Scarola, don't make me

1 take out the Kleenex and start wiping my  
2 eyes because of the deprivation of your  
3 client's resources that the firm, that he  
4 has wisely retained, is at the controls.

5 MR. SCAROLA: We consider ourselves to  
6 be an adequate match for whatever the  
7 resources are on the other side.

8 THE COURT: And just let the record  
9 show that we have somewhat of a nervous  
10 smile on our faces. We're all concerned  
11 about what might be transpiring over this  
12 weekend and beyond. So I appreciate the  
13 courtesies.

14 But I would expect that -- have you  
15 filed any motions in limine yet? Where are  
16 we there?

17 MS. HADDAD: Your Honor, we have not  
18 yet filed motions in limine. Right now we  
19 are still preparing.

20 There are some previous -- I don't want  
21 to get involved, because we are here on a  
22 five-minute UMC -- but there's some previous  
23 discovery that's still not yet been complied  
24 with.

25 Unfortunately, yesterday I was just

1 about ready to finalize them, but my office  
2 was being evacuated. I live in a flood zone  
3 in Broward County.

4 THE COURT: I understand.

5 MS. HADDAD: They will be filed before  
6 the 15th.

7 THE COURT: I understand. I am not  
8 trying to pressure anybody. What I am  
9 trying to do is make sure -- because I don't  
10 think that I am being at all presumptuous  
11 here that there is going to be motions in  
12 limine brought, probably by both sides, and  
13 those have to be tackled, and we are running  
14 out of time, to be honest with you,  
15 especially with the storm season  
16 approaching, what we are staring down right  
17 now.

18 So, you know, here we are. We don't  
19 have those set as yet. My calendar runs  
20 September 25th through December 1st, this  
21 one coming up, the September docket.

22 MS. HADDAD: Judge, you specially set  
23 us the week of December 5th for trial.

24 THE COURT: I am well aware of that,  
25 Ma'am, that's why I'm suggesting why haven't

1 the motions been filed as yet. Seems to me  
2 to be somewhat hard to believe that during  
3 the pendency of the period of time -- at  
4 least from the time the Supreme Court  
5 rendered i's decision -- which was when?  
6 You remember, approximately?

7 MR. SCAROLA: I don't recall, Your  
8 Honor. It has been quite a few months.

9 MR. BREWER: It's been quite a few  
10 months, but it hasn't been that long.

11 THE COURT: Well, it's been long  
12 enough, is what I'm trying to suggest to  
13 you, that there should be motions already  
14 filed.

15 MS. HADDAD: Judge, the motions were  
16 filed the last three times we were set for  
17 trial. The case was stayed, and as such we  
18 didn't think it was appropriate to be  
19 filling things when the case was stayed.

20 THE COURT: I am not suggesting that,  
21 Ma'am. Please don't use that type of tone  
22 here.

23 What I am suggesting solely is if they  
24 have been filed, then that's fine, then we  
25 can find hearing time.

1           But motions in limine that I believe  
2           are going to be necessary to be heard -- and  
3           I am not going to suggest what the subject  
4           matter is going to be, but I think it is  
5           rather obvious -- if it's obvious to me  
6           handling 1,350 cases, plus whatever we are  
7           getting now from the foreclosure division,  
8           then I don't think I am being overly  
9           presumptuous.

10           But in any event, as I said, we are  
11           running out of time. Friday comes, and we  
12           do have a docket call -- which I'm hoping  
13           and praying that we will, simply because it  
14           will mean that we are not in the grave  
15           danger that we may be -- it's going to be,  
16           at least to a degree, somewhat late.

17           I don't hear motions in limine during  
18           trial, not those that can be contemplated.  
19           Certainly, if something comes up that's not  
20           been thought about, then perhaps that might  
21           be a possibility. But what I'm talking  
22           about is basic issues that I foresee being  
23           an issue and being in play, potentially. We  
24           need to get rulings on these things rather  
25           quickly, in my respectful view.

1           MR. SCAROLA: I was going to suggest,  
2           Your Honor, that if we are going to be  
3           gathered together for a motion for summary  
4           judgment, we might have a case management  
5           conference at the same time, at which  
6           deadlines can be set and hearings can be  
7           set.

8           I know that we have a motion to compel  
9           answers to punitive damage interrogatories  
10          over Fifth Amendment objections that have  
11          been raised. That's the one motion that I  
12          know we have that we would ask the Court to  
13          address. That might be a good way to do it.

14          THE COURT: And I appreciate that. I  
15          don't want to suggest anything. But I am  
16          just -- again, as a former trial lawyer and  
17          a judge now for 18 years, I tend to foresee  
18          things that I believe are going to be  
19          necessary on some of those larger matters  
20          that I am dealing with here.

21          Again, I know it's fits and starts. I  
22          recognize that. I appreciate it and respect  
23          that. But at the same you have to  
24          understand that I am trying to manage a  
25          docket.

1 I have set this case for a time  
2 certain. And calendar call for this current  
3 docket is Friday, next week, a week from  
4 today (sic). And --

5 MR. SCAROLA: I'm sorry. Today? Today  
6 is Wednesday.

7 THE COURT: I keep thinking today is  
8 Friday. I am presuming today is going to be  
9 the last day of the week. Excuse me. My  
10 apologies.

11 A week from Friday.

12 MR. SCAROLA: I'm trying to make sure  
13 we are on the same page.

14 THE COURT: We are.

15 What I'm trying to point out is the  
16 simple fact that we are looking at a time  
17 crunch here. And I don't want my back to be  
18 up against the wall because I am worried  
19 about getting things taken care of when they  
20 should have already been taken care of.  
21 That's the message that I am leaving you  
22 with today.

23 So, what I am thinking about doing is  
24 probably setting aside a day, if I have  
25 it -- I know I have at least one 10-day

1 medical malpractice case that's set during  
2 that docket. And there are a lot of cases  
3 that I'm aware of that are lengthy on this  
4 coming docket, so I will do the best I can.

5 But what I'm envisioning is perhaps  
6 setting something -- like a day aside --  
7 perhaps on a Friday, if I can manage it --  
8 in mid-November, and that way, hopefully,  
9 you will have the benefit of the Court's  
10 ruling. Hopefully, we will have the case on  
11 track to be tried, and you will know where  
12 we are at that point in time from the  
13 standpoint of the issues that are going to  
14 be teed up.

15 Your thoughts?

16 MR. SCAROLA: That's certainly  
17 satisfactory, Your Honor.

18 THE COURT: You envision motions as  
19 well?

20 MR. SCAROLA: Your Honor, the only  
21 motion that I envision is the one I  
22 mentioned to the Court, motion to compel  
23 responses to punitive damage interrogatories  
24 over the Fifth Amendment objections that  
25 have been raised.

1           We believe -- I said interrogatories --  
2           I believe they are both interrogatories and  
3           production requests; things like tax returns  
4           that aren't protected by Fifth Amendment  
5           privilege.

6           THE COURT:   What about depositions?  
7           Have you taken Mr. Epstein's deposition  
8           already in this case?

9           MR. SCAROLA:   We have attempted to take  
10          Mr. Epstein's deposition on multiple  
11          occasions.   He is asserting Fifth Amendment.

12          THE COURT:   That's what I'm presuming  
13          is also going to be an issue as well.

14          MR. SCAROLA:   I might mention that  
15          Mr. Epstein has filed an affidavit in  
16          support of his summary judgment motion,  
17          which we believe needs to be stricken as a  
18          consequence of his refusal to participate in  
19          pretrial discovery by raising privilege  
20          objections.   So that will be an issue at the  
21          summary judgment hearing, whether the Court  
22          can consider an affidavit after Mr. Epstein  
23          has declined to participate by answering  
24          relevant and material questions during  
25          discovery.

1           THE COURT: That's what I'm talking  
2 about. We are going to need time.

3           Again, I don't want this discussion  
4 today to suggest that you have to file  
5 anything. Again, it's just generic  
6 discussion in the sense that when you are  
7 dealing with a case, and you are trying to  
8 control the docket, and trying to manage the  
9 case from my standpoint, I have got to  
10 anticipate certain things that are going to  
11 be filed. I haven't seen that yet.

12           MS. HADDAD: Your Honor, as you may  
13 recall, last time we were here you ordered  
14 Mr. Scarola to -- and vice versa -- to  
15 provide a witness list. Once we received  
16 that, we have been actively trying to take  
17 depositions and set depositions of their  
18 witness.

19           It's not a situation in which we are  
20 not preparing for a trial and gearing up.  
21 We may have additional motions based upon  
22 what these witnesses say. We just --  
23 unfortunately, Mr. Scarola has been in trial  
24 and we have only received limited dates of  
25 availability, pursuant to which to take



COURT CERTIFICATE

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STATE OF FLORIDA        )  
                                  : SS  
COUNTY OF PALM BEACH )

I, SONJA D. HALL, certify that I was  
authorized to and did stenographically report the  
foregoing proceedings and that the transcript is a  
true record of my stenographic notes.

Dated this 6th day of September 2017.

\_\_\_\_\_  
SONJA D. HALL