

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

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

CASE NO.: 50 2009 CA 040800XXXXMBAG

vs.

JUDGE: HAFELE

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually,

Defendant/Counter-Plaintiff.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT/COUNTER-
PLAINTIFF BRADLEY EDWARDS'S MOTION TO EXPAND NUMBER OF
INTERROGATORIES**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rules 1.340 and 1.280 of the *Florida Rules of Civil Procedure*, hereby files his objections to Defendant/Counter-Plaintiff Bradley Edwards's ("Edwards") Motion to Expand the Number of Interrogatories¹ as follows:

INTRODUCTION

This case was first set for trial through the trial period commencing October 18, 2013. In accordance with this Court's Order setting Trial, Epstein filed his Trial Witness List and Exhibit List on or about June 24, 2013. Before trial, this Court granted Summary Judgment in favor of Epstein as to both counts of Edwards's Complaint against him for Abuse of Process and Malicious Prosecution. This Court's ruling as to the Malicious

¹ While Edwards erroneously states in his Motion that he may only serve 25 Interrogatories without leave of Court, the 1988 amendment to Rule 1.340 increased the number of permitted interrogatories to 30, including all subparts.

Prosecution count had been on appeal since that time, but this Court again had this matter set for trial in the fall of 2016. Pursuant to that Order Setting Trial, Epstein filed his Trial Witness List and Exhibit List, which was nearly identical to the one he filed in June 2013, on August 8, 2016.

After Epstein served his August 8, 2016 Trial Witness List and Exhibit List, Edwards served Interrogatories upon Epstein, to which Epstein objected on two grounds: first, as exceeding the permitted number permitted by law without leave of court, and second, as impermissible as a matter of law.

On May 25, 2017, Edwards filed a Motion to Expand Interrogatories and attached thereto two (2) sets of Interrogatories, alleging therein that “the use of written interrogatories is the least burdensome, least expensive and most expeditious discovery means available to the Defendant by which to obtain necessary information and narrow trial issues,” and that “[t]he Plaintiff will not be prejudiced through the granting of this motion.” *See Edwards’s Motion and Exhibits*, attached hereto as Exhibit A. As demonstrated in detail below, permitting Edwards to expand his Interrogatories is impermissible and objectionable, and Edwards’ motion should be denied.²

MEMORANDUM OF LAW

“It is well settled that the scope and limitation of discovery falls within the broad discretion of the trial court.” *Cordis Corp. v. O’Shea*, 988 So. 2d 1163, 1165 (Fla. 4th DCA 2008). However, interrogatories are not intended to be used for “exploring all minute details of a controversy.” *Cabrera v. Evans*, 322 So. 2d 559, 560 (Fla. 3d DCA

² By filing this Opposition, Epstein does not waive any right to assert any legal objections to the substance of the Interrogatories or request an order of protection as to any of the discovery requested, should the Court permit same.

1975). Most importantly, it is axiomatic that “one party is not entitled to prepare his case through the investigative work product of his adversary when the same or similar information is available through ordinary investigative techniques and discovery procedures.” *Dodson v. Persell*, 390 So.2d 704, 708 (Fla. 1980). *See also Bishop by & through Adult Comprehensive Protective Services, Inc. v. Polles*, 872 So. 2d 272, 274 (Fla. 2d DCA 2004) (interrogatory asking plaintiffs to identify each document or item they might offer as evidence at trial was overbroad and improperly sought information protected by work-product privilege).

The case at bench has been pending since 2009, and the parties have engaged in exhaustive discovery throughout that time. Nevertheless, Edwards now seeks permission from the court to require Epstein to do his job for him. Specifically, Edwards is asking this Court to permit him to serve Epstein with the following Interrogatories:

“As to **every individual identified** on Jeffrey Epstein's List of Trial Witnesses, state the following:

1. Each contested factual issue expected to be addressed by the witness;
2. A detailed description of the testimony expected to be presented at trial by the witness as to each contested factual issue;
3. A description of the Trial Exhibit List number of each exhibit expected to be introduced into evidence by the witness;
4. A description of the Trial Exhibit List number of each exhibit introduced through other means which the witness is expected to testify about, together with a description of the witness' expected testimony regarding each exhibit.” *See Exhibit A*. (First Additional Set of Interrogatories attached to Edwards’s Motion).

Edwards' list of trial witnesses improperly identifies intended witnesses by categories, rather than providing specific witnesses identified by their proper names. The vague and deliberately uninformative categories Edwards uses in his witness list, include "anyone named in any deposition or discovery responses; all victims identified in the local, state and federal investigations; all attorneys who have prosecuted claims against Jeffrey Epstein on behalf of other victims; all other named victims; all persons referenced in Edwards' Motion for Summary Judgment."³

Epstein, on the other hand, filed a witness list separately and specifically identifying seventy-four (74) individual witnesses by name. Although Edwards does not specify any subparts to his interrogatories, and on the face of them, he only appears to make four (4) requests, Edwards is, in fact, making these four separate detailed requests about each of Epstein's seventy-four (74) named witnesses. Edwards has known the identity these witnesses since *at least* 2013 when Epstein filed his first witness list, and accordingly this request is impermissible. *See Slatnick v. Leadership Housing Systems of Florida, Inc.*, 368 So. 2d 78 (Fla. 4th DCA 1979) (stating in response to one interrogatory that "this question alone, relative to 18 condominium buildings, might take a week to answer. It is difficult to imagine how the author of these particular interrogatories could have possibly conjured up a more oppressive and burdensome collection."); *Greyhound Lines, Inc. v. Jackson*, 445 So. 2d 1107 (Fla. 4th DCA 1984).

Next, Edwards's Interrogatories undeniably seek Epstein's protected work

³ Edwards' list of trial witnesses fails to comport with the applicable Rules as well as the Court's Order in that it fails to identify names or addresses of any of the alleged witnesses in the vague witness categories provided by Edwards, and despite specific requests by Epstein for Edwards to do so, Edwards has failed to rectify this issue since 2013. This violation is the subject of a separate Motion that is still pending before this Court.

product. In *Surf Drugs, Inc. v. Vermette*, 236 So. 2d 108 (Fla. 1970), the Florida Supreme Court provided this general definition of what constitutes work product: “**personal views of the attorney as to how and when to present evidence, his evaluation of its relative importance, his knowledge of which witness will give certain testimony . . .** come within the general category of work product.” *Id.* at 112 (emphasis added). *See also* FLA. R.CIV. P. 1.280(b)(2); *Southern Bell Tel. & Tel. Co. v. Deason*, 632 So. 2d 1377 (Fla. 1994).

In his Interrogatories, Edwards requests that Epstein provide for each of Epstein’s separately named witnesses “a detailed description of the testimony expected to be presented at trial by the witness as to each contested factual issue; a description of the Trial Exhibit List number of each exhibit expected to be introduced into evidence by the witness; a description of the Trial Exhibit List number of each exhibit introduced through other means which the witness is expected to testify about, together with a description of the witness’ expected testimony regarding each exhibit.” *See Exhibit A*. These Interrogatories are, unquestionably, demanding protected work product as defined by the Florida Supreme Court. *Vermette*, 236 So. 2d at 112. “The rationale supporting the work product doctrine is that ‘**one party is not entitled to prepare his case through the investigative work product of his adversary where the same or similar information is available through ordinary investigative techniques and discovery procedures.**’” *Millard Mall Servs., Inc. v. Bolda*, 155 So. 3d 1272, 1274–75 (Fla. 4th DCA 2015) (citing *S. Bell Tel. & Tel. Co. v. Deason*, 632 So. 2d 1377, 1384 (Fla. 1994) (emphasis added)).

Finally, the second set of Interrogatories attached to Edwards’s Motion impermissibly seek Net Worth Discovery from Epstein; discovery about which the

parties have already extensively litigated, and to which Epstein already provided responses on July 10, 2013⁴. A true and correct copy of the Interrogatories, as well as the certificate of service for the answers to same, is attached hereto as composite “Exhibit B.”

Consequently, and for all of the reasons set forth above, Edwards’ Motion is improper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this June 20, 2017.

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⁴ Epstein does not waive any right to assert any substantive legal objections or request an order of protection as to any of the discovery requested, should the Court permit same.

SERVICE LIST

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