

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

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

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

Defendants/Counter-Plaintiff.

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**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S RESPONSE  
TO EDWARDS' MOTION TO STRIKE EPSTEIN'S UNTIMELY SUPPLEMENTAL  
EXHIBITS AND TO STRIKE ALL EXHIBITS AND ANY REFERENCE TO  
DOCUMENTS CONTAINING PRIVILEGED MATERIALS LISTED ON EDWARDS'  
PRIVILEGE LOG**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein") responds to Defendant/Counter-Plaintiff Bradley J. Edwards Motion to Strike Epstein's Untimely Supplemental Exhibits and to Strike All Exhibits and Any Reference to Documents Containing Privileged Materials Listed on Edwards' Privilege Log.

**ISSUES TO BE DECIDED BY THE COURT**

The issues for the Court to decide include: (1) are the exhibits identified by Epstein relevant; (2) were the documents, when created, protected by the work product discovery doctrine; (3) has the work-product protection been waived based on (a) production to Razorback, (b) issue injection, (c) crime fraud exception, (d) fraud on the court, and (e) delivery by the Special Master based on instructions from Mr. Scarola to provide to Fowler White whatever documents the Special Master deems producible.

## INTRODUCTION

Edwards has asserted the disc was stolen. Epstein's current counsel has disclosed in detail how it received the disc. *See* Affidavit of Tina L. Campbell. The disc was not stolen from anyone!

Unfortunately, who provided the disc of 27,000+ pages of e-mails to Fowler White is unclear. It is unknown if the disc of e-mails that is the subject of Edwards' Motion came from Edwards directly, Edwards' counsel, the Bankruptcy Trustee or the Special Master. Edwards' assertion that the "27,500-page disc" was never provided to the Fowler White firm and that somehow it has been unethically and inappropriately obtained by Mr. Link and Ms. Rockenbach is facially flawed and lacking even a scintilla of evidence to justify it, is itself unprofessional and unethical. Furthermore, the chronology Edwards provided to the Court to support his baseless assertion is incomplete. For instance, at a March 15, 2011, hearing before the Special Master, Edwards' counsel stated, "The situation we have here is one where we have turned over the documents themselves for in-camera inspection. They're available to you. You can look at them. *We have told you to turn over anything and everything that you think is relevant, material, not privileged by attorney-client privilege, not work-product. Give it to them.*" (3/15/11 Hearing Transcript, p. 43) (Excerpt, **Exhibit A**). Possibly, then, the disc that is the subject of Edwards' Motion came from the Special Master. At this point in time, it is simply unknown and, frankly, not germane to the real issues to be decided by the Court. Edwards has studiously avoided any meaningful substantive discussion as to those issues which are central to Edwards' Motion.

We do know that in July 2011, Edwards' counsel told the Court that Edwards had "nothing to hide" in the alleged privileged documents and was just concerned about waiving the attorney-client privilege:

...as much as we might like to take all of this and put it on the floor in the courtroom for Your Honor and everybody else in the world to take a look at because **we have nothing to hide**, we can't do that.

See 7/13/11 hearing transcript, p. 58 (Excerpt, **Exhibit B**). Based on the evidence that Edwards asks this Court to exclude, it is clear that Edwards *does* have something to hide. He is asking the Court to strike that evidence because it proves his claim for malicious prosecution has no merit.

**A. Privilege Log Confusion**

Edwards' Motion is based largely on unsupportable accusations of wrongdoing and unethical behavior by Mr. Link and Ms. Rockenbach (Edwards says the disc was stolen) and a February 23, 2011, privilege log. Edwards refuses to address the relevance of the evidence. Understandably, he cannot because the evidence is the death of his claim. From a review of the Court's records, the February 2011 privilege log appears to be null and void. For instance, on May 7, 2012, the Court found that Edwards' February 23, 2011, privilege log was insufficient on its face and ordered Edwards to provide "a more complete privilege log" within 30 days. (**Exhibit C**.) On August 17, 2012, the Court vacated that Order without prejudice, and ordered Edwards to produce "a proper privilege log as referenced in this Court's May 7, 2012 Order." (**Exhibit D**.) Epstein's counsel has not found a subsequent privilege log.

Furthermore, the description of documents on the February 23, 2011, privilege log is seriously misleading and inadequately describes the participants or contents to be able to determine whether the documents were subject to privilege or if portions should have been produced in redacted form. In addition, Edwards has identified Bate stamp ranges, and multiple documents are contained within those ranges that have not been listed individually.

The following are illustrative examples:

- 4408-4412 is an 10/17/09 e-mail exchange between Edwards and Cassell where Edwards asks Cassell if there was any way he could "bait [Epstein] into suing me".

BATES	DATE	TO	FROM	DESCRIPTION	PRIVILEGE
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04403-04416	10/17/09	Paul Cassell	Bradley Edwards	Punitive Damages	W/P; Attorney Client Privilege; irrelevant and not reasonably calculated to lead to the discovery of admissible evidence; protected by privacy rights
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- 4399-4400 is an 10/17/09 e-mail exchange between Edwards and Cassell discussing how much better cases than theirs had settled for \$155,000.

BATES	DATE	TO	FROM	DESCRIPTION	PRIVILEGE
4387-4402	8/19/09	Paul Cassell	Bradley Edwards	Victim Complaints, Forensic accounts, & Epstein's Fraudulent Transfers	W/P; Attorney Client Privilege; irrelevant and not reasonably calculated to lead to the discovery of admissible evidence; protected by privacy rights

- Multiple e-mails dated 10/23/09 about Edwards' direct participation with Rothstein and others to avoid the structured settlement statute for an Epstein case (the following is just a sampling from the privilege log).

BATES	DATE	TO	FROM	DESCRIPTION	PRIVILEGE
08033-08070	10/23/09	Attorneys at RRA	Mike Fistos	Legal Research RE: Causes of action against Epstein	W/P; Attorney Client Privilege; irrelevant and not reasonably calculated to lead to the discovery of admissible evidence; protected by privacy rights
25997	10/23/09	Scott Rothstein	Russell Adler	Legal Research RE: causes of action against Epstein	W/P; Attorney Client Privilege; irrelevant and not reasonably calculated to lead to the discovery of admissible evidence; protected by privacy rights
26741-26763	10/23/09	Attorneys at RRA	Bradley Edwards	Legal Research RE: causes of action	W/P; Attorney Client Privilege; irrelevant

				against Epstein	and not reasonably calculated to lead to the discovery of admissible evidence; protected by privacy rights
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**B. Review of Documents**

A duplicate of the disc has been provided to Edwards’ counsel. Epstein’s current counsel has not reviewed all of the 27,000 pages on the disc. However, from the 110 items listed on the Appendix that came from the disc, 44 (less than half) are listed on the February 23, 2011, privilege log, 14 were marked as exhibits at Edwards’ May 2013 deposition, and 52 others were neither used as exhibits nor identified on the privilege log.

Epstein’s team has reviewed approximately 4,000 – 5,000 of the 27,000 e-mails. Many of the e-mails have no relevance to the issues of this case and were not printed (for instance, e-mails relating to musical and sporting events and other non-business-related communications). Edwards’ counsel’s contention, therefore, that *only* privileged information is contained on the disc that he alleges Epstein’s current counsel somehow wrongfully obtained is untrue.

In reviewing as carefully as possible from a forensic look-back standpoint, there are significant gaps in the correspondence, documents and records to fully understand how various document issues were resolved.

- All 27,000 pages on the disc have been produced to both Epstein and Razorback. (See April 8, 2011, and June 7, 2011, letters which appear to indicate that Razorback’s counsel received 27,000+ pages of emails in the Epstein matter). (**Exhibits E and F.**)
- The 1,600 identified and withheld by Edwards from Epstein e-mails have already been produced to Razorback thus eliminating any claim of work product protection.
- The 27,000+ pages may have been reviewed and produced to Fowler White by the Special Master as requested by Mr. Scarola.

- Edwards may have maintained a separate disc containing the 1,600 privileged, never-before produced e-mails and Edwards has a copy of that disc. We found no copy of such a disc in the files we obtained from Fowler White, and none of the subject e-mails Epstein seeks to use as evidence came from any such disc.

Adding to the confusion, the disc shows that the 27,000 documents were burned to it in December 2010. Unfortunately, it seems that no one can say with certainty who delivered the disc to Fowler White. What is known now is that these documents were produced to Epstein by Edwards, the Trustee or the Special Master, without a signed Confidentiality Agreement. The proper procedure is for the Court to review all of the alleged work product “privileged” documents to determine the relevancy and whether any work-product protection still exists. **Importantly, none of the appendix exhibits were communications to or from Edwards’ clients ██████████ ██████████. All of the documents are internal RRA communications or communications to the media. The trial of this case should be about uncovering the truth related to Edwards’ claim against Epstein, which Edwards contends is directly related to the truth of Epstein’s claims against Rothstein and Edwards, not about hiding relevant evidence.** All of the lawyers in this case have ethical obligations to our profession to bring the truth to light.

**C. Edwards’ Factual Inconsistencies**

From a review of the documents, it is unclear how many documents were reviewed by Edwards and produced and when this occurred. There are conflicting statements in the record and those made by Edwards’ counsel. Epstein addresses some of the factual inconsistencies and confusion created by Edwards regarding the production by Edwards of the documents to the Fowler White law firm:

Date	Event	No. of Documents
9/20/10	Edwards’ Motion provides that 27,590 pages were provided to the Special Master	27,590

Date	Event	No. of Documents
11/2/10	Edwards informed the Bankruptcy Court that the RRA Trustee had produced <b>74,000</b> pages of documents on two compact discs ( <i>this event was not included in Edwards' chronology to the Court</i> )	74,000
11/30/10	Edwards' Motion for Stay of Subpoena in this action provides that Edwards had to review more than <b>70,000</b> pages of materials to identify responsiveness and to assert an appropriate privilege ( <i>this event was not included in Edwards' chronology to the Court</i> )	70,000
12/16/10	LM advised the Bankruptcy Court that there would be approximately 24,000 pages produced	24,000
1/25/11	Edwards' Motion provides that 8,408 pages were produced to Epstein	8,408
2/23/11	Edwards' Motion provides that 12,711 pages were produced to Epstein	12,711 (bringing the total produced to 21,119)
5/7/12	Edwards' Motion provides that 163 pages were produced to Epstein*	163 (bringing the total produced to 21,282)
10/10/13	Edwards testified that he had reviewed and produced to Epstein 25,000 – 26,000 pages of documents ( <i>this event was not included in Edwards' chronology to the Court</i> )	25,000 – 26,000

*All* of the 163 pages (representing 63 documents) produced by Edwards on May 7, 2012, are found on the disc that Edwards claims was stolen and are identified on Edwards' February 23, 2011, privilege log. That means, 63 documents listed on the privilege log that Edwards claims has never been produced to Epstein were used in this litigation without objection. Those 63 documents which are on the disc and contained on the privilege log were identified individually as exhibits

on Epstein's Exhibit List since November 16, 2017. (See Epstein Trial Exhibit Nos. [REDACTED])

(Exhibit M.) That brings the total of 77 documents on the disc are already in the Court file.

**D. Documents Were Turned Over to Razorback's Counsel**

It is clear that Edwards' counsel turned over 27,000+ pages to Razorback's counsel. What is unclear is if those were the same documents that Epstein's current counsel recently found on the disc in Fowler White's files which also contains 27,000+ pages. That is another unknown. However, if the documents that Edwards now claims were not to be produced to anyone were produced to Razorback, then any claim of privilege has been waived.

By way of background, on April 8, 2011, Razorback's counsel confirmed:

Accordingly, this letter is intended to confirm the terms and conditions of the production by your client, Bradley Edwards, to us of all documents, without redaction, and notwithstanding any claim of privilege made or that could be made, that the Bankruptcy Trustee Herbert Stettin caused to be turned over or delivered to the Special Master pursuant to the special master process described above and any further documents that Bradley Edwards has in his possession, custody or control responsive to our subpoena (collective, the "Epstein Related Documents"). ...

**(Exhibit E.)**

Furthermore, on June 7, 2011, Razorback's counsel wrote to Farmer, Jaffee:

I am troubled by our discussion yesterday afternoon with respect to the copying of the documents identified for copying within the fourteen boxes of documents related to the Epstein cases, as well as, the dispute concerning the **production of the 27,000 plus e-mails or pages of e-mails which were to be transferred on to the thumb drive** provided by my office.

**(Exhibit F.)**

**E. Timing of Identifying Exhibits**

Edwards has asked the Court to strike highly relevant documents Epstein has identified and disclosed as trial exhibits because they are detrimental to his case and question his credibility, not because they will cause any undue prejudice because of their alleged late disclosure. Edwards

testified in 2013 that he reviewed every single e-mail that Epstein has listed on his Exhibit List. Moreover, Edwards was a direct participant in all but a small few of the e-mails Edwards now seeks to exclude. This means, Edwards cannot in good faith claim surprise. Edwards' Motion should be denied because Epstein has good cause for the timing of the new exhibits and the parties agreed in their Pre-Trial Stipulation that they can amend their Exhibit Lists after the filing of the Stipulation.

### **EPSTEIN'S EXHIBITS**

Epstein is not seeking a trial by ambush. Rather, Epstein has produced documents as his counsel has located them. The documents are relevant in this case and Epstein has good cause for the timing of their production. Epstein is the one who will be prejudiced if he is not allowed to introduce and use the exhibits at trial. Epstein summarizes the exhibits below:

#### **A. Rothstein, Rosenfeldt and Adler E-mails**

Epstein identified and disclosed a number of emails from the Rothstein, Rosenfeldt and Alder firm that directly contradict sworn testimony and statements in this case. Specifically, Edwards has testified under oath that he had no involvement with Rothstein related to the Epstein cases and that he has suffered anxiety every single day since December 7, 2009, when Epstein filed his Complaint against him. Edwards, however, was not being truthful. The documents Epstein's counsel recently discovered show, among other things, 1) Edwards' direct participation with Rothstein and others to avoid the structured settlement statute for an Epstein case; 2) Edwards' admission that he was baiting Epstein to sue him personally so that he could force Epstein to waive his constitutionally protected Fifth Amendment right; and 3) Edwards' admission that [REDACTED]

Edwards has testified that Rothstein had very little involvement in the Epstein cases:

Q. Where you ever present at a meeting where Mr. Rothstein

was also present where the Epstein cases were discussed?

A. No.

Edwards' 3/23/10 Depo., 112:3-6. (Excerpt, **Exhibit G.**) In addition, when asked how involved Rothstein was in the Epstein cases, Edwards claimed that he "hardly talked to the guy." (Edwards' 11/10/17 Depo., 28:14). (Excerpt, **Exhibit H.**) In fact, however, the e-mails recently discovered and disclosed as trial exhibits conclusively demonstrate significant involvement by Rothstein.

A sampling of the illustrative documents has already been provided to the Court in Epstein's Appendix in support of his Response in Opposition to Edwards' Motion in Limine seeking to limit the evidence in this case. Edwards and his counsel should not be allowed to hide these documents from the jury.

**B. Exhibits Relating to L.M., E.W., Jane Doe**

During the November 29, December 5 and December 7, 2017, hearings, the Court advised the parties that Epstein would need, in essence, to prove each allegation of his original Complaint, including the statement that Edwards' three clients' claims were "weak." The Court also indicated it would allow Edwards to discuss his three clients' claims against Epstein. In addition, at those hearings, Edwards advised his three clients would testify at trial, along with [REDACTED] another alleged victim of Epstein.

Because of these rulings, Epstein's counsel shifted their focus from defending probable cause to finding additional evidence to support that Edwards' clients' claims were weak. Epstein had sufficient information demonstrating the weakness of Edwards' clients' claims at the time of the filing of the original proceeding. In light of the Court's rulings that [REDACTED] and Jane Doe could take the witness stand in this malicious prosecution action, Epstein's counsel began conducting extensive background research on each of Edwards' clients and reviewing the documents from the underlying cases in preparation for cross-examining them as to their

credibility. [REDACTED]

[REDACTED] In fact, some of the law enforcement agencies have yet to respond to public records requests. Nevertheless, on February 2, 2018, Epstein's counsel produced what had been gathered to that date. Supplemental public records were provided to Edwards' counsel on February 16 and March 2, 2018.

The documents are directly relevant to Edwards' witnesses' credibility, trustworthiness, and background. [REDACTED]

### C. Alan Dershowitz

Epstein has identified exhibits relating to a defamation lawsuit Edwards filed in January 2015 against Alan Dershowitz (one of Epstein's attorneys).<sup>1</sup> In that action, Edwards alleged:

Despite having previously been the victim of character assassination by the Defendant ALAN M. DERSHOWITZ'S associate and client, Jeffrey Epstein, BRADLEY J. EDWARDS **enjoys a highly favorable national reputation** particularly related to his work in defending the rights of child victims of sexual abuse.

(*Dershowitz*, Complaint, ¶ 8, emphasis added.)

Edwards alleged that Dershowitz made a media assault upon him (and Paul G. Cassell) to attack his reputation and character:

... DERSHOWITZ initiated a massive public media assault on the reputation and character of BRADLEY J. EDWARDS and PAUL G. CASSEL accusing them of intentionally lying in their filing, of having leveled knowingly false accusations against the Defendant

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<sup>1</sup> *Bradley J. Edwards and Paul G. Cassell v. Alan Dershowitz*, 17<sup>th</sup> Judicial Circuit, Broward County Case No. CACE-15-000072.

DERSHOWITZ, without ever conducting any investigation of the creditability of the accusations, and of having acted unethically to the extent that their willful misconduct warranted and required disbarment.

(*Dershowitz*, Complaint, ¶ 17.)

In April 2016, Edwards, Cassell and Dershowitz resolved their respective claims and Edwards and Cassell informed the Court that the filing of their action against Dershowitz was a “tactical mistake.” (*Dershowitz*, Notice of Withdrawal of Motion for Partial Summary Judgment.)

In order to maximize his recovery on his claims against Dershowitz, Edwards had to and did allege that his reputation had recovered (from any effects of Epstein’s suit against him) and that Dershowitz’ defaming public statements caused harm to his reputation. Now that Edwards has admitted that suing Dershowitz was a tactical mistake, he claims that Epstein is once again the cause of harm to his reputation. Epstein, therefore, identified exhibits that contradict this position.

**D. Edwards’ Website and Verdicts**

Epstein has identified as trial exhibits printouts from Edwards’ current website and verdicts and judgments referenced therein. Edwards touts his jury verdicts, including verdicts he has received since Epstein filed suit (\$7.1 million, \$5.7 million, \$24 million, etc.). It is important for the jury to understand and see how Edwards has not “suffered” from Epstein’s filing of the lawsuit against him.

**E. Edwards’ Property Records**

Epstein has identified as trial exhibits information about Edwards’ real property ownership to show the jury how Edwards’ success after Epstein filed suit has allowed him to invest in more expensive and larger real estate.

**F. CVRA Documents**

Edwards has taken the position that the Crime Victims’ Rights Act action against the

United States Government was a motive for Epstein filing suit against him. Because that action will play a key role in this case, Epstein identified additional pleadings from that action. Epstein's points out that Edwards himself identified the entire action on his Exhibit List. (Edwards' Trial Exhibit No. 113.)

### CONTINUATION OF THE LAWSUIT IS AN ISSUE

During the December 5, 2017, hearing, Edwards' counsel made clear that he intended to prove that Epstein did not have probable cause to file the action or to continue it. Specifically, Edwards' counsel argued:

1 MR. SCAROLA: ...  
2 .... We contend there was no probable  
3 cause to initiate this proceeding, there was  
4 no probable cause to continue the  
5 proceeding. The initiation and continuation  
6 of the proceeding caused damage to Bradley  
7 Edwards, both because no probable cause ever  
8 existed. So it was both initiated and  
9 continued in the absence of probable cause.

(12/5/17 Transcript, p. 46) (Excerpt, **Exhibit I**).

The parties have further stipulated in the Pre-trial Stipulation that the continuation of the action will be addressed at trial:

2.B. If Epstein had probable cause to initiate the original civil proceeding against Edwards at the time the case was initially filed, **whether a reasonably cautious person would have continued to prosecute the civil proceeding** against Edwards, based on new information acquired by Epstein after the case was filed. (The parties agree that in the absence of material disputed facts, the issue of whether Epstein's claim against Edwards was maintained when probable cause no longer existed is an issue to be determined by the Court.)

2.C. Epstein's Position: Whether Epstein instituted or **continued his civil proceeding** against Edwards maliciously and without probable cause for the primary purpose of injuring Edwards or recklessly and without regard for whether the proceeding was justified. (This issue

is based on the Standard Jury Instruction, but Edwards disputes it is appropriate.)

Edwards' Alternate Position: Whether Epstein instituted or **continued his civil proceeding** against Edwards with legal and/or actual malice. (Epstein disputes this issue because it does not follow the Standard Jury Instruction.)

2.D. Epstein's Position: **Whether the continuation of the civil proceeding** by Epstein against Edwards resulted directly and in natural and continuous sequence from Epstein's actions and, but for Epstein's actions, the proceeding would not have been continued. (Edwards disagrees that this is an issue and is of the position that, having conceded that Epstein is responsible for initiating the claim, and having waived any "advice of counsel" defense, it is impossible for Epstein to contend that responsibility for maintenance of the action up until the time of its voluntary dismissal is attributable to anyone but Epstein himself.)

#### Pre-Trial Stipulation. (Exhibit J.)

Edwards has the burden of proof. The e-mails recently disclosed as trial exhibits are critical to the cross examination of Edwards both as to his credibility and as support for the continuation of the proceeding and Epstein will be prejudiced if he is not allowed to introduce them at trial.

### **HISTORY OF DISCLOSURE OF TRIAL EXHIBITS**

#### **A. July 20, 2017, Order Specially Setting Jury Trial**

The Court's July 20, 2017, Order Specially Setting Jury Trial provides, in pertinent part:

ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS. At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved on the schedules attached to the Pre-Trial Stipulation prepared in accordance with paragraphs D and E, **absent agreement specifically stated in the Pre-Trial Stipulation** or order of the Court upon good cause shown. A party desiring to use an exhibit or witness discovered after counsel have conferred pursuant to paragraph D shall immediately furnish the Court and other counsel with a description of the exhibit ..., together with the reason for the late discovery of the exhibit or witness. Use of the exhibit or witness may be allowed by the Court for good cause shown or to prevent manifest injustice.

Order, ¶ G (Exhibit K).

Pursuant to the Trial Order, the deadline for the parties to exchange Exhibit Lists was 60 days prior to trial; that is, by October 6, 2017.

**B. Epstein's Exhibit Lists**

Epstein's current counsel appeared in this case on November 1, 2017. At that time, Epstein's operative Exhibit Lists contained only twenty-one items, many of which were identified categorically. **(Composite Exhibit L.)** In order to better identify the documents, Epstein filed an Amended Exhibit List on November 16, 2017, listing the documents individually that previously were identified in categories. **(Exhibit M.)** In the Amended Exhibit List, Epstein also identified some general categories, such as:

13. All documents produced by any party or non-party in this matter;
18. *L.M. v. Epstein*, court filings, etc.
30. *L.M. v. Epstein* (federal court), court filings, etc.
35. *E.W. v. Epstein*, court filings, etc.
48. *Jane Doe v. Epstein*, court filings, etc.
59. *Jane Doe 2 v. Epstein*, court filings, etc.
68. *Rothstein Rosenfeld Adler v. Rothstein*, court filings, etc.
84. *Razorback Funding v. Rothstein*, court filings, etc.
323. All public records and news articles relating to Scott Rothstein, Rothstein Rosenfeldt Adler, Bradley J. Edwards and any witnesses listed by either party
324. All court dockets and filings in all matters against Jeffrey Epstein relating to any victims' claims.
328. All rebuttal and impeachment exhibits.
330. All newly discovered documents/exhibits.

On November 29, December 5 and December 7, 2017, important rulings were made by this Court that directly impacted the evidence that would be presented at trial. For instance, the Court determined that Edwards would be allowed to provide evidence about his three clients' underlying claims and that Epstein would need to prove each allegation of his Complaint, including that Edwards' clients' claims were "weak." These rulings resulted in additional evidence needed for trial.

On December 19, 2017, Epstein's counsel provided Edwards' counsel with a flash drive containing the exhibits identified on Epstein's November 16, 2017, Amended Exhibit List, but stated, "In light of the Court's recent rulings, *we anticipate amending our Exhibit List after we have had an opportunity to review Mr. Epstein's former counsels' files.*" (Exhibit N.)

On February 2, February 16, and March 2, 2018, Epstein's counsel provided Edwards' counsel with additional exhibits that fell within Exhibit Nos. 18, 25, 48, 323, and 324. (**Composite Exhibit O.**) Those documents were identified above. In the February 2, 2018, transmittal, Epstein's counsel advised, "We are still obtaining additional public records and will provide those to you upon our receipt."

In addition, on February 22, 2018, Epstein's counsel's office advised Edwards' counsel's office that Epstein would be updating his Exhibit List to list each item individually as required by the Clerk's guidelines for submission of trial exhibits. (**Exhibit P.**)

On March 5, 2018, Epstein filed his Clerk's Exhibit List which identified each item individually that had been previously provided to Edwards' counsel. (**Exhibit Q.**)

**C. Edwards' Exhibit Lists**

Edwards amended his Exhibit List multiple times as well, serving his last list on December 7, 2017, after the original deadline.

**D. December 22, 2017, Pre-Trial Stipulation**

As allowed by the Court's Order Specially Setting Jury Trial, in their Pre-Trial Stipulation, the parties agreed that "**The parties do not waive their right to amend their Exhibits Lists** and to identify additional objections for those exhibits that have not yet been disclosed and/or provided to correspond with the parties' respective Exhibit Lists." Thus, the parties agreed that amendments to their Exhibit Lists could be filed *after* the filing of the Pre-Trial Stipulation.

**CONCLUSION**

**Mr. Link and Ms. Rockenbach did not steal the disk!**

There is no doubt that the exhibits recently discovered and identified by Epstein's counsel are relevant to the issues to be tried. Epstein does not believe any attorney-client privilege (none of the exhibits are to or from a RRA lawyer and one of Edwards' clients – Jane Doe, E.W. or L.M.) work product protection applies to the identified exhibits. The evidence calls directly into question the veracity and truthfulness of Edwards in this case. It would be a miscarriage of justice for the jury not to see the real Edwards. There is uncertainty about where the disc containing the 27,000 pages of e-mails that was recently discovered by Epstein's current counsel in the Fowler White boxes came from. The documents do not clarify if the disc was provided to Fowler White by Edwards, the Trustee, or the Special Master. Making it more difficult is the fact that none of the documents contained on the disc bear any confidentiality legend or watermark. What is clear is that Mr. Link and Ms. Rockenbach did not steal the disc. Although Epstein's counsel has not had the opportunity yet to review all of the pages on the disc, their review of 5,000 pages reveals a hodgepodge of mostly irrelevant and a few relevant documents. The uncertainty regarding when and how these materials were produced should not dictate whether or not to admit relevant and non-privileged or no-longer privileged evidence directly germane to the issues that Edwards himself has made central to this case, as well as the credibility and trustworthiness of Edwards,

who is a central witness in this case.

Accordingly, Epstein respectfully requests that Edwards' Motion be denied and that he be allowed to introduce the exhibits identified on his Clerk's Exhibit List at the trial of this matter.

**CERTIFICATE OF SERVICE**

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on March 7, 2018, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

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[redacted]; [redacted] [fax]

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**SERVICE LIST**

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