

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.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S OMNIBUS RESPONSE
IN OPPOSITION TO DEFENDANT/COUNTER-PLAINTIFF BRADLEY
EDWARDS' FOUR MOTIONS TO COMPEL**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein") responds in opposition to Defendant/Counter-Plaintiff Bradley Edwards' ("Edwards") four Motions to Compel served on September 21, 2017, relating to Edwards' (1) April 15, 2011 Requests to Produce, (2) December 21, 2012 Interrogatories (Net Worth), (3) December 21, 2012 Request for Production (Punitive Damages), and (4) February 26, 2013 Requests for Admissions (Net Worth), and states:

INTRODUCTION

Edwards' four generic motions must be denied because they are moot and contain only one uniform sentence stating that he "moves for an Order compelling Jeffrey Epstein to provide a substantive response to [the discovery request]." The discovery requests and responses were served over four to six years ago. Epstein stipulated that his present net worth is more than \$100 million. Most importantly, Epstein invoked his Fifth Amendment privilege, which was accepted by Edwards' trial counsel and recognized by the predecessor trial judge at the hearing on

September 16, 2013. The resulting Order rendered November 15, 2013, closes this issue and all that remains is what legal application any adverse inference may have for trial.

Counsel notes that there is a “good-faith” certification to each of the Motions to Compel which may have been reached with predecessor counsel. Undersigned counsel only discussed the pending motions on November 22, 2017, to obtain agreement that this consolidated response could be filed on November 27, 2017, due to the Thanksgiving holiday.

THE DISCOVERY REQUESTS AT ISSUE

The discovery requests at issue seek:

April 15, 2011 – Request for Production seeking documents relating to any allegation of illegal activity or tortuous conduct in which Epstein is alleged to have engaged. **(Exhibit A.)**

December 21, 2012 – Interrogatories and Request for Production seeking punitive damages related financial documents. **(Exhibits B and C.)**

February 26, 2013 – Admissions about Epstein’s status as a “billionaire.” **(Exhibit D.)**

Epstein has responded to the discovery as follows:

May 16, 2011 – Epstein’s Response to Edwards’ Request to Produce. **(Exhibit E.)**

July 9, 2013 – Epstein’s Amended Responses to Net Worth Interrogatories and Amended Responses to Edwards’ Request for Production (Punitive Damages). **(Exhibits F and G.)**

March 27, 2013 – Epstein’s Responses to Edwards’ Requests for Admissions. **(Exhibit H.)**

PRIOR ORDER MOOTS EDWARDS’ NEW MOTIONS TO COMPEL

On November 15, 2013, the Honorable David F. Crow rendered an Order on Edwards’ Motion to Determine Status of Punitive Damage Discovery and Applicability of Adverse Inference. **(Exhibit I.)**

MEMORANDUM

I. EDWARDS ACCEPTED EPSTEIN'S INVOCATION OF, AND THE TRIAL COURT PREVIOUSLY RULED ON, THE FIFTH AMENDMENT RAISED AS TO FINANCIAL DISCOVERY

Following extensive discovery requests, responses, motions and hearings, including an *in camera* inspection, Epstein amended his discovery answers, produced portions of his tax returns and stipulated that his present net worth is more than \$100 million. *See* July 9, 2013 Amended Response to Interrogatory No. 14. (**Exhibit F**.) These disclosures provided sufficient information for Edwards to enter into evidence in the unlikely event that punitive damages become at issue in this case.

Significantly, at a hearing on September 16, 2013, the parties discussed outstanding discovery in the context of Edwards' request for a status on discovery and/or an adverse inference. Epstein's counsel informed the Court that the Fifth Amendment issue remained as to the pending discovery dispute and Edwards' counsel stated, "I will accept Ms. Coleman's representation on the record that all of the discovery that has been withheld has been withheld solely on the basis of the Fifth Amendment privilege." (T. 21) (**Exhibit J**). Epstein's counsel clarified, "The discovery that was at issue is the net-worth discovery for the punitive damages." (T. 21). After further discussion, Edwards accepted Epstein's position that the financial discovery was withheld on the basis of the Fifth Amendment privilege. (T.22).

The Order emanating from that hearing titled "Status of Punitive Damage Discovery and Applicability of Adverse Inference" expressly deferred ruling on Edwards' request for an adverse inference jury instruction *until trial* and stated that, "upon specific analysis of the specific question and answers, including those propounded in discovery, the Court will

determine whether an adverse instruction will, or will not, be given and the specific instruction, if any, that will be given.” (**Exhibit I**)(emphasis added).

Accordingly, any issue Edwards may have had related to Epstein’s net worth and financial discovery responses was put to bed over four years ago and is now moot. Edwards was fully heard and accepted Epstein’s assertion of his Fifth Amendment privilege.

II. THE MOTION TO COMPEL THE APRIL 15, 2011 REQUEST FOR PRODUCTION MUST BE DENIED.

Edwards’ request itself is confusing because it is compound and unclear which communications are sought. (**Exhibits A and E.**) Regardless, in good faith, Epstein responded to what he viewed as two parts of the request. First, Epstein has no documents between himself or his agents and William Scherer. Second, Epstein appropriately asserted his Fifth Amendment in response to the request for documents with “any prosecuting, law enforcement, and/or government entities which communication relates directly or indirectly to any allegation of illegal activity or tortuous conduct in which Epstein is alleged to have engaged.”

Epstein’s assertion of the Fifth Amendment is clearly justified, as any of these communications may contain testimonial evidence that would incriminate him. Moreover, these documents are not even relevant under Florida Statute section 90.401 because they go solely to the merits of the lawsuits against Epstein by Edwards’ clients - not at issue in this action. Because of the lack of probative value to the issues to be tried in this case, these must also be excluded under Florida Statutes section 90.403.

CONCLUSION

Epstein respectfully requests that the Court deny Edwards’ one sentence motions to compel. The discovery related to financial net worth is moot because Epstein amended his responses, stipulating to a present net worth of more than \$100 million and any other related

issue was rendered moot by the parties' argument, acceptance of the Fifth Amendment assertion, and trial court's Order. Likewise, the Motion to Compel related to Edwards' 2011 request for production must be denied because Epstein appropriately and timely raised his Fifth Amendment privilege as to any communications between him and any prosecuting, law enforcement, and/or government entity relating to any allegation of illegal activity.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on November 27, 2017, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

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