

JEFFREY EPSTEIN,

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

CASE NO. 502009CA040800XXXXMBAG

JUDGE: HAFELE

Plaintiff,

vs.

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

Defendants.

**JEFFREY EPSTEIN'S MOTION TO COMPEL DISCOVERY RESPONSES
FROM BRADLEY J. EDWARDS**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.380 of the *Florida Rules of Civil Procedure*, hereby moves this Court to enter an order compelling the Defendant/Counter-Plaintiff Bradley J. Edwards ("Edwards"), yet again, to provide responses to Plaintiff's Request for Production. In support thereof, Plaintiff states:

INTRODUCTION

Since March 9, 2012, Epstein has been seeking, and has obtained numerous Orders from this Court requiring, documents from Edwards that directly relate to both Edwards prosecution of, and Epstein's defense of, this case. True and correct copies of the Motions and Orders are attached hereto as composite "Exhibit A." These items are listed on an improper privilege log filed by Edwards in this matter, pursuant to which he seeks to preclude *any information whatsoever* regarding the prosecution of the cases against Epstein by RRA during the Ponzi Scheme. A true and correct copy of the privilege log sections at issue are attached hereto as "Exhibit B."

Notwithstanding three Court Orders mandating him to do so, Edwards has failed to provide responsive documents or otherwise file any proper privilege log with respect to the items requested that are directly related to the prosecution and defense of this matter. *See Orders from this Court dated April 10, 2012, May 7, 2012, and August 17, 2012*, attached hereto as part of composite "Exhibit A." Undeniably, in his Malicious Prosecution Count in his Fourth Amended Counterclaim, Edwards specifically alleges that while prosecuting the cases against Epstein at RRA, he had "not engaged in any unethical, illegal, or improper conduct nor has EDWARDS taken any action inconsistent with the duty he has to vigorously represent the interests of his clients. EPSTEIN has no reasonable basis to believe otherwise and has never had any reasonable basis to believe otherwise." *See Edwards's Fourth Amended Counterclaim*, ¶ 24. As such, and as demonstrated more fully below, an Order compelling Edwards to comply with this Court's orders is warranted. .

MEMORANDUM OF LAW

Rule 1.280 of the *Florida Rules of Civil Procedure* memorializes this broad scope, and provides that

Parties may obtain discovery **regarding any matter, not privileged, that is relevant to the subject matter of the pending action**, whether it relates to the **claim or defense of the party seeking discovery** or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. **It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.**

FLA. R.CIV. P 1.280(1) (emphasis added). As such, as long as the discovery requested is relevant to the cause of action as to any claim or defense, and is not otherwise subject to a privilege, it is discoverable. Here, Edwards has a single remaining claim against Epstein for Malicious Prosecution, and has therefore not only made the actions of both him and his law partners at RRA the subject of this litigation, but also necessary to prove either his assertions in his cause of action or Epstein's defense thereto. This Court has repeatedly agreed, yet notwithstanding three Orders compelling him to do so, Edwards not only failed to provide the items requested, but also failed to provide a privilege log as mandated. It is well-settled law that if a party alleges that information requested from it is protected by privilege, then a privilege log must be prepared and attached to the response, *or the privilege is waived*. See *TIG Insurance Corp. of America v. Johnson*, 799 So. 2d 339 (Fla. 4th DCA 2001) (stating that failure to provide a reason for privilege and prepare a privilege log constitutes waiver of the privilege) (emphasis added). Accordingly, Edwards should be compelled to turn over all of the items requested by Epstein.

Finally, a court has the inherent power to implement and enforce effective judicial proceedings pursuant to pretrial rules. As such, when a party fails to comply with a pretrial order, a court has broad discretion in determining sanctions. *First Republic Corp. of America v. Hayes*, 431 So. 2d 624 (Fla. 3d DCA 1983). Rule 1.380(3) of the *Florida Rules of Civil Procedure* provides that “[f]or purposes of this subdivision an evasive or incomplete answer

shall be treated as a failure to answer.” FLA. R.CIV. P. 1.380(3). This Rule likewise governs failure to comply with a prior court order and mandates that such failure “may be considered a contempt of the court.” FLA. R.CIV. P. 1.380(b).

Plaintiff certifies that he “in good faith, has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action.” FLA. R.CIV. P. 1.380.

CONCLUSION

Accordingly, for all of the reasons delineated above and in reliance upon the applicable law cited herein, Jeffrey Epstein respectfully requests that this Court, yet again, Order Defendant Bradley Edwards to respond in full to Plaintiff’s Request to Produce, and such other and further relief as this Court deems proper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served, via electronic service, to all parties on the attached service list, this September 25, 2017.

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