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UNCERTIFIED TRANSCRIPT DISCLAIMER IN THE MATTER OF
EPSTEIN
v.
ROTHSTEIN

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2 thereof, in the above-entitled matter, taken on October
3 13th, 2018, is being delivered UNEDITED and UNCERTIFIED
4 by the official court reporter at the request of Scott
5 Link, Esquire.

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21 preparation of the certified transcript, resulting in
22 differences in content, page and line numbers,
23 punctuation and formatting.

24
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1 **THEREUPON,**

2 **JEFFREY EPSTEIN,**

3 being a witness in the notice heretofore
4 filed, and being first duly sworn in the above cause,
5 testified on his oath as follows:

6 **THE WITNESS:** Yes.

7 **DIRECT EXAMINATION**

8 BY MR. SCAROLA:

9 **Q** Would you please state your full name?

10 **A** Jeffrey E. Epstein.

11 **Q** Would you list for us, please, each of your
12 residence addresses?

13 **MR. GOLDBERGER:** I think it's beyond
14 the scope. I'm going to object to Fifth
15 Amendment.

16 You want him to invoke or you okay with
17 me doing it?

18 **MR. SCAROLA:** We want Mr. Epstein to
19 invoke any privilege that Mr. Epstein
20 considers appropriate to invoke.

21 **THE WITNESS:** The Fifth.

22 BY MR. SCAROLA:

23 **Q** I'm sorry?

24 **A** The Fifth.

25 **Q** You are the same Jeffrey Epstein that is a

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1 party in the current state court proceedings in which
2 Bradley Edwards has brought suit against you for
3 malicious prosecution, correct?

4 **A** Correct.

5 **Q** Mr. Epstein, I'm going to hand you what I
6 have marked as Exhibit Number 1 to this deposition.

7 Ask you take a look at that document.

8 **MR. SCAROLA:** Paul, this is
9 Mr. Epstein's sworn declaration of fact that
10 was filed in the bankruptcy court
11 proceeding.

12 **MR. CASSELL:** I am familiar with that.

13 Thank you, Jack.

14 (Defendants/Counter-Plaintiffs' Exhibit
15 Number 1 was marked for identification.)

16 BY MR. SCAROLA:

17 **Q** Do you recognize the document, Mr. Epstein?

18 **A** Yes.

19 **Q** Is that, in fact, your signature above the
20 line that says Jeffrey Epstein?

21 **A** Yes.

22 **Q** There is a signature to the left of yours at
23 the bottom of the document. Whose signature is that?

24 **A** I don't know.

25 **Q** Who were the attorneys who were representing

1 you at the time that this declaration was prepared on
2 August 14, 2018?

3 **MR. LINK:** Object to the form.

4 **THE WITNESS:** Could you ask the
5 question again.

6 BY MR. SCAROLA:

7 **Q** Yes, sir.

8 Who were the lawyers who were representing
9 you in this matter on August 14, 2018?

10 **THE WITNESS:** Scott Link.

11 BY MR. SCAROLA:

12 **Q** Anyone else?

13 **A** Jack Goldberg.

14 **Q** Anyone else?

15 **A** Darren Indyke.

16 **Q** Anyone else?

17 **A** Not that I recall.

18 **Q** Who prepared this declaration?

19 **A** I believe the Link firm.

20 **Q** Was it sent to you initially in the form in
21 which it presently appears?

22 **A** I don't recall.

23 **Q** Do you have any recollection whatsoever of
24 having any input into the content of this declaration?

25 **MR. LINK:** So, Mr. Epstein, I just want

1 to caution you. I don't want you to share
2 any of our communications or conversations.

3 Okay. You can answer the question
4 without disclosing anything we have talked
5 about.

6 **THE WITNESS:** No.

7 BY MR. SCAROLA:

8 **Q** You had no input?

9 **A** I don't have anything separate from my
10 attorneys. Any input I have is with conversations with
11 my attorneys.

12 **Q** That's not my question. I have not asked you
13 whether you received any information from your
14 attorneys.

15 I asked you whether you had any input into
16 the content of this declaration?

17 **MR. LINK:** Again, I am going to
18 instruct you not to disclose any of our
19 conversations and communications.

20 You can simply answer yes or no to the
21 question. If you remember it, then you can.

22 **THE WITNESS:** Sorry. So I'm clear, the
23 conversations I had with you about this --

24 **MR. LINK:** We are not going to talk
25 about.

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1 **THE WITNESS:** So is that an answer of
2 yes or no?

3 **MR. LINK:** If the question is, do you
4 recall whether you made any changes to what
5 was sent to you, I think you can answer yes
6 or no.

7 **MR. SCAROLA:** That's not the question.

8 BY MR. SCAROLA:

9 **Q** I want to know whether you had any input
10 whatsoever into the drafting of this declaration.

11 Was any of the information contained in
12 this declaration included in the declaration as a
13 consequence of input that you personally had? Or
14 was it simply all drafted by somebody else for your
15 signature?

16 **MR. LINK:** So, if you can answer that
17 question without disclosing our
18 communications, you can answer the question.
19 If you can't answer it without disclosing
20 our communication, Mr. Epstein, then you are
21 instructed not to answer it.

22 BY MR. SCAROLA:

23 **Q** Your answer to the question, sir?

24 **A** I can't disclose anything -- I have only had
25 a conversation with my attorney regarding this.

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1 **Q** Yes, sir.

2 But my question does not ask you about any
3 communication you had with your lawyers. I am
4 asking you whether you had any input into the
5 language that is included within this declaration.

6 Is anything here your -- the consequence
7 of your input?

8 **MR. LINK:** So, let me just -- I have
9 two questions for you, Mr. Scarola. One, I
10 thought we were starting with state court
11 matter.

12 **MR. SCAROLA:** We are.

13 **MR. LINK:** I may have misunderstood,
14 because this is a bankruptcy declaration.
15 And there isn't anything in Judge Hafele's
16 order that talks about bankruptcy testimony
17 or spoke that you can inquire about.

18 Obviously, by signing this he has
19 adopted every statement in there as his own.
20 So I'm not sure what we are doing at the
21 moment.

22 BY MR. SCAROLA:

23 **Q** Can you answer the question, sir?

24 **A** I cannot answer the question.

25 **Q** Why?

1 **A** Anything I talked about with respect to this
2 document is a conversation with my attorneys.

3 **Q** And I'm not asking about any communication
4 you had with your lawyer. I want to know whether
5 anything in this affidavit is as a consequence of your
6 personal input?

7 **MR. LINK:** So, if there was anything
8 you did separate and apart from our
9 conversations, then you can tell him. If
10 not --

11 **THE WITNESS:** No.

12 BY MR. SCAROLA:

13 **Q** No what?

14 **A** No.

15 **Q** Nothing in this affidavit was as a result of
16 your personal input; is that correct?

17 **MR. LINK:** What he said was separate
18 and apart.

19 My instruction is, you may not disclose
20 any of our communications. If you can
21 answer the question about something you did
22 separate and apart from my directions to you
23 or our communications, you can answer the
24 question. Other than that, you cannot.

25 **MR. SCAROLA:** Mr. Link, communications

1 with counsel are privileged if they are in
2 intended to remain confidential.

3 If Mr. Epstein communicated something
4 to you to include within this affidavit,
5 that obviously was not intended to remain
6 confidential. It was intended to be
7 communicated in this particular filing.

8 **MR. LINK:** Mr. Scarola, I disagree with
9 you. I'm instructing him not to answer, if
10 it's based on our communications period.

11 BY MR. SCAROLA:

12 **Q** The second paragraph of this affidavit says,
13 "The law firm of Fowler White Burnett, PA represented
14 me" -- meaning you -- "in the state court proceeding
15 from June 2010 through May 2012."

16 What were the terms on which you retained
17 the Fowler White Burnett law firm?

18 **MR. LINK:** Mr. Scarola, you are
19 exceeding the scope of the deposition in the
20 state court matter.

21 There are four very specific limited
22 topics. None of which have you asked a
23 single question about. I'm really trying to
24 understand what --

25 Do you want to do the bankruptcy first?

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1 **MR. SCAROLA:** No. No, sir. I want to
2 do the state court proceeding first. I'm
3 asking questions that relate directly to the
4 topics that are defined within the state
5 court order and I would like an answer to
6 that question.

7 **MR. LINK:** Would you please tell which
8 topic you are focus on? There are only
9 four.

10 **MR. SCAROLA:** This relates to all of
11 them.

12 **MR. LINK:** It does not, Mr. Scarola.

13 **MR. SCAROLA:** We have a disagreement
14 about that. If you are instructing him not
15 to answer, then the Court will make a
16 determination as to whether that is or is
17 not an appropriate instruction and whether
18 we will or will not be back here to redepose
19 Mr. Epstein once again.

20 Are you instructing him to the answer?

21 **MR. LINK:** Your question is what were
22 the terms of his engagement of Fowler White?

23 **MR. SCAROLA:** Yes, that's correct.

24 **MR. LINK:** Then I'm instructing him not
25 to answer.

1 BY MR. SCAROLA:

2 Q Did you engage Fowler White on an hourly
3 basis?

4 MR. LINK: I am instructing him not to
5 answer.

6 BY MR. SCAROLA:

7 Q Did Fowler White present invoices to you for
8 services that were rendered on an hourly basis?

9 MR. LINK: I am instructing him not to
10 answer.

11 BY MR. SCAROLA:

12 Q Were you ever billed by Fowler White with
13 invoices that included a description of the services
14 that Fowler White rendered on your behalf?

15 MR. LINK: I am instructing him not to
16 answer.

17 BY MR. SCAROLA:

18 Q Were you kept informed as to what Fowler
19 White did on your behalf in connection with their
20 representation of you?

21 MR. LINK: I'm instructing him not to
22 answer. It exceeds the scope of the Court's
23 order.

24 BY MR. SCAROLA:

25 Q Your affidavit -- excuse me. Your

1 declaration states that as part of Fowler White's
2 representation of you, that they represented you in
3 proceedings in the bankruptcy case concerning a
4 subpoena that your original counsel issued to the
5 bankruptcy trustee. Is that statement true?

6 **A** Yes.

7 **Q** Who was your original counsel that issued the
8 subpoena to the bankruptcy trustee?

9 **A** I don't recall.

10 **Q** What was subpoenaed?

11 **A** The question again.

12 **Q** What was subpoenaed?

13 **A** I don't recall.

14 **Q** Were emails subpoenaed?

15 **A** I'm not sure what subpoena you are talking
16 about. Sorry.

17 **Q** The one that you declared under penalty of
18 perjury was issued by your original counsel to the
19 bankruptcy trustee.

20 **A** I don't recall.

21 **Q** Did you ever come to learn that the trustee
22 in the bankruptcy for the law firm Rothstein,
23 Rosenfeldt & Adler, had been subpoenaed to produce
24 emails contained on the server of that law firm?

25 **A** I don't recall.

1 **Q** Did it ever come to your attention that
2 emails contained on the server of the law firm
3 Rothstein, Rosenfeldt & Adler had been produced
4 connection with the state court civil proceedings by
5 the bankruptcy trustee to a special master that had
6 been appointed for purposes of determining what, if
7 any, emails from that production would be turned over
8 in response to the subpoena that was issued?

9 **A** Separate from any conversations with my
10 attorney, I don't recall.

11 **Q** Did you ever learn that privilege was being
12 asserted with respect to the production of any emails
13 that were contained on a Rothstein Rosenfeldt Adler
14 server?

15 **A** Separate from a conversation with my
16 attorneys, I don't recall.

17 **Q** Are you aware, as you sit here today, that
18 federal bankruptcy Judge Ray issued an order with
19 respect to procedures to be followed in connection with
20 responding to an email subpoena?

21 **MR. LINK:** Object to the form.

22 **MR. SCAROLA:** What's the problem with
23 the form?

24 **MR. LINK:** You didn't give us any time.
25 Is there more than one.

1 **MR. SCAROLA:** No, I did. I said as you
2 sit her today.

3 **MR. LINK:** No, as to the order. But --
4 If you can answer the question, you can
5 answer question.

6 **THE WITNESS:** I'm sorry. You have to
7 repeat it.

8 BY MR. SCAROLA:

9 **Q** Yes. As you sit here today, are you aware
10 that federal bankruptcy Judge Ray issued an order
11 concerning matters relating to the production of
12 Rothstein Rosenfeldt Adler emails?

13 **MR. LINK:** Object to the form.

14 **THE WITNESS:** Outside conversations
15 with my attorney, no.

16 BY MR. SCAROLA:

17 **Q** Have you ever seen an order issued by federal
18 bankruptcy Judge Ray that impose restrictions on the
19 possession of electronic data produced in response to a
20 subpoena for emails from the Rothstein Rosenfeldt Adler
21 law firm?

22 **MR. LINK:** Object to the form.

23 **THE WITNESS:** Outside of conversations
24 with my attorney, no.

25

1 BY MR. SCAROLA:

2 Q Tell me about the conversations that you had
3 with your lawyers relating to the terms of Judge Ray's
4 order.

5 MR. LINK: I am going to instruct you
6 not to answer that question.

7 BY MR. SCAROLA:

8 Q Have you ever personally seen any of the
9 language that was included within Judge Ray's order?

10 A Outside of the conversations with his
11 attorney, no.

12 Q Well, a conversation with your lawyer does
13 not tell me anything in response to a question that
14 asks what you have seen.

15 Have you ever seen any of the language
16 included within Judge Ray's order that impose
17 restrictions on the possession of electronic data
18 relating to emails of the Rothstein Rosenfeldt Adler
19 firm?

20 MR. LINK: So let me object to the
21 form.

22 If you can answer the question
23 independent of communications with your
24 lawyer -- so if you looked at the order on
25 your own, then you can answer.

1 **THE WITNESS:** I don't recall.

2 BY MR. SCAROLA:

3 **Q** Are you aware that contempt proceedings are
4 pending in the federal bankruptcy court?

5 **A** Yes.

6 **Q** What is your understanding of what those
7 proceedings are about?

8 **A** It's in regards to the discovery of a disc
9 that was in possession of Fowler White.

10 **Q** What is it in regard to that disc?

11 **A** That's not a very good question. Sorry.

12 **Q** I'm sorry?

13 **A** Can you ask a question.

14 **Q** The question is, what is it about this disc
15 that is the subject matter of contempt proceedings in
16 the bankruptcy court?

17 **MR. LINK:** So, again, if you can answer
18 the question based on your own personal
19 review of information, rather than our
20 communications, you can share that with
21 Mr. Scarola.

22 **THE WITNESS:** Nothing outside my
23 conversations with the attorney.

24 BY MR. SCAROLA:

25 **Q** Did you ever become aware that a subpoena was

1 issued to the bankruptcy trustee to produce emails?

2 **A** I don't recall.

3 **Q** Did you ever become aware that a claim of
4 privilege was asserted with regard to any of the emails
5 on the Rothstein Rosenfeldt Adler server?

6 **A** Outside of conversations with my attorney,
7 no.

8 **Q** Did your lawyer tell you that a claim of
9 privilege had been made with regard to any of the
10 emails on the RRA server?

11 **MR. LINK:** Mr. Scarola, you know better
12 than to ask that question.

13 Mr. Epstein, do not answer that
14 question.

15 **MR. SCAROLA:** Mr. Link, those happen to
16 be matters as to which privilege is waived
17 as a consequence of your own disclosures in
18 your own affidavits and your own statements
19 with respect to this case.

20 **MR. LINK:** I disagree with you.

21 **MR. SCAROLA:** That's fine.

22 **MR. LINK:** I'm going to instruct you
23 not to answer.

24 **MR. SCAROLA:** Just as long as you know
25 that it is our position that there has been

1 a waiver. You can instruct the witness not
2 to answer and the Court will make a
3 determination with regard to that legal
4 issue.

5 **MR. LINK:** There's no question.

6 And I will say this, for the record.
7 You haven't asked a single question about
8 the four topics that Judge Hafele
9 specifically delineated for this limited
10 deposition you could take.

11 But I am instructing you not to answer
12 the question, Mr. Epstein.

13 BY MR. SCAROLA:

14 **Q** Paragraph four of your declaration, Exhibit
15 Number 1, states, "In February 2018, Scott J. Link of
16 Link & Rockenbach, PA, informed me that he had located
17 a disc in Fowler White's files labeled," quote,
18 "Epstein Bate Stamp," unquote.

19 Did I read that accurately?

20 **A** Correct.

21 **Q** That was a communication from Mr. Link, your
22 lawyer, to you, correct?

23 **A** Yes.

24 **Q** What else did Mr. Link tell you?

25 **MR. LINK:** So, I'm going to instruct

1 you not to disclose any of your
2 conversations that involved legal advice or
3 strategy or protected communication.

4 If you recall that I said anything
5 other than I located a disc specific to that
6 topic, you can answer.

7 **THE WITNESS:** I remember that.

8 Everything else I talked with my attorneys.

9 BY MR. SCAROLA:

10 **Q** Yes, I know you were talking to your lawyer.
11 I want to know everything that your lawyer told you in
12 this conversation that you have partially disclosed.

13 **MR. LINK:** So --

14 BY MR. SCAROLA:

15 **Q** What else did he tell you?

16 **MR. LINK:** So, I'm going to instruct
17 you not to answer based both on
18 attorney-client privilege and exceeds the
19 scope of Judge Hafele's order.

20 BY MR. SCAROLA:

21 **Q** Your response?

22 **MR. LINK:** I have instructed him not to
23 answer.

24 BY MR. SCAROLA:

25 **Q** When in February of 2018 did you have this

1 communication with Mr. Link?

2 **A** I don't recall specifically.

3 **Q** What was the form of the communication?

4 **A** I don't recall specifically.

5 **Q** When you tell me you don't recall
6 specifically, that suggest that you may recall
7 generally. What is your recollection with regard to
8 the form that the communication took?

9 **A** It's not specifically -- I believe it was a
10 phone call. But that's my best recollection.

11 **Q** Where were you when you received that phone
12 call?

13 **A** No idea.

14 **Q** Did Mr. Link tell you why he was calling to
15 tell you that he had located a disc?

16 **MR. LINK:** Mr. Epstein, I am going to
17 instruct you not to answer the question.

18 BY MR. SCAROLA:

19 **Q** Did Mr. Link tell you what was on the disc?

20 **MR. LINK:** I'm going to instruct you
21 not to answer.

22 BY MR. SCAROLA:

23 **Q** Did Mr. Link communicate to you at any time
24 anything regarding the content of a disc that had been
25 located in Fowler White's files?

1 **MR. LINK:** I am going to instruct you
2 not to answer.

3 **MR. SCAROLA:** The basis of that
4 instruction?

5 **MR. LINK:** Attorney-client privilege
6 and exceeds scope of Judge Hafele's order.

7 BY MR. SCAROLA:

8 **Q** Had you known prior to Mr. Link's
9 communication with you in February of 2018 that Fowler
10 White had come into possession of a disc relating to
11 anything having to do with the litigation in which you
12 were involved?

13 **MR. LINK:** Can you read the first part?
14 Did he say if or did you? I'm sorry, I
15 missed the first words.

16 (Thereupon, the requested portion of the
17 record was read back by the reporter as
18 above duly recorded.)

19 **MR. LINK:** I'm going to object to form.

20 **THE WITNESS:** No.

21 BY MR. SCAROLA:

22 **Q** How was it that you remember that?

23 **A** I'm sorry. The question again.

24 **Q** How is it that you can tell us under oath
25 today that you had no prior knowledge of Fowler White

1 having come into possession of a disc relating to your
2 litigation?

3 **A** So, to be clear, to the best of my
4 recollection today, the answer is no. I have no
5 recollection whatsoever.

6 **Q** So the answer is not no. The answer is I
7 don't remember. Is that correct?

8 **MR. LINK:** No. That's not what he
9 said.

10 BY MR. SCAROLA:

11 **Q** Well, I want to know. Are you telling us,
12 no, you didn't know; or are you telling us, I don't
13 remember whether I knew or not?

14 **A** My best recollection is no. I can't be
15 certain of anything, frankly. So the answer is -- with
16 respect to most questions, my answer is no. But I
17 can't be certain that someone hadn't told me something
18 years ago. I have no recollection. I would say no.

19 **Q** Paragraph five of this declaration says, "I
20 have no personnel knowledge of how the CD came to be in
21 Fowler White's possession."

22 Do you have any knowledge that, in fact,
23 it did come to be in Fowler White's possession?

24 **MR. LINK:** So, you can -- other than
25 our communications, you have can answer the

1 question.

2 **THE WITNESS:** It's only through
3 communications with my attorney.

4 BY MR. SCAROLA:

5 **Q** So Mr. Link told you that he got the disc
6 from Fowler White; is that correct?

7 **MR. LINK:** You can answer that
8 question.

9 **THE WITNESS:** Correct.

10 BY MR. SCAROLA:

11 **Q** Did he tell you when he got it from Fowler
12 White?

13 **MR. LINK:** If you remember, you can
14 answer that question.

15 **THE WITNESS:** Sometime in February.

16 BY MR. SCAROLA:

17 **Q** Are you aware that William Berger was deposed
18 in the state court civil proceeding?

19 **A** I don't recall.

20 **Q** Do you know who William Berger is?

21 **A** No, sir.

22 **Q** Do you recall a former Palm Beach County
23 circuit court Judge having been involved as co-counsel
24 in the prosecution of molestation claims against you by
25 the Rothstein Rosenfeldt Adler firm?

1 **THE WITNESS:** Is this part of
2 today's --

3 **MR. LINK:** If you remember that there
4 was a --

5 **THE WITNESS:** I do not remember.

6 BY MR. SCAROLA:

7 **Q** At the time that you had the communication
8 with Mr. Link sometime in February of 2018, did
9 Mr. Link discuss any of the data that was included on
10 the disc that he was informing you about?

11 **MR. LINK:** Mr. Epstein, I am going to
12 instruct you not to answer.

13 BY MR. SCAROLA:

14 **Q** Have you ever received any documents that
15 were represented to have been included on that disc?

16 **MR. LINK:** Object to the form.

17 If you can answer that question without
18 disclosing our communications you can answer
19 it.

20 **THE WITNESS:** Anything I received, I
21 received from my attorneys.

22 BY MR. SCAROLA:

23 **Q** Yes. And I want to know whether you ever
24 received any of -- any documents that were represented
25 to you to have been printed from data on the disc that

1 Mr. Link told you about in February of 2018.

2 **MR. LINK:** So, again, without
3 disclosing our communications, you can
4 simply tell him whether you were provided
5 generally any documents, without disclosing
6 any specific documents or our
7 communications.

8 **THE WITNESS:** I don't believe so.

9 BY MR. SCAROLA:

10 **Q** What specific documents that originated on
11 the disc did you receive?

12 **MR. LINK:** So, I'm going to instruct
13 you not to answer that question based on
14 attorney-client and work product.

15 BY MR. SCAROLA:

16 **Q** How many documents did you receive?

17 **MR. LINK:** That question you can
18 answer, if you remember.

19 **THE WITNESS:** I don't remember.

20 BY MR. SCAROLA:

21 **Q** Can you characterize in any way the volume of
22 documents that you received that you understood
23 originated on the disc?

24 **A** I don't recall.

25 **Q** Was it more than one?

1 **A** Probably.

2 **Q** Was it more than two?

3 **A** Probably.

4 **Q** Was it more than three?

5 **A** I don't know what you mean by documents. Are
6 you talking about pages?

7 **Q** Yes. Let's be very specific.

8 Did you receive more than three pages that
9 you understood to have been printed out from the
10 disc?

11 **MR. LINK:** Let me think about the
12 question for a minute.

13 You can answer that question.

14 **THE WITNESS:** Yes.

15 BY MR. SCAROLA:

16 **Q** Was it more than 10?

17 **A** I would say less than 100, so we don't have
18 to go through numbers.

19 **Q** That does indeed save us some time.

20 Was it more than 50?

21 **A** I don't recall.

22 **Q** Was it probably more than 50?

23 **A** I don't recall.

24 **Q** So the best you are able to tell us is that
25 it was, more likely than not, more than three and less

1 than 100 pages, and you can't narrow it down any
2 further than that; is that correct?

3 **A** Correct.

4 **Q** How did you receive those pages?

5 **A** I don't recall.

6 **Q** Were they electronically transmitted to you?

7 **A** I don't recall.

8 **Q** Do you have any recollection of ever having
9 received hard copies of documents generated from the
10 disc?

11 **MR. LINK:** Object to the form.

12 You are talking about from me?

13 **MR. SCAROLA:** No, I didn't ask that.

14 **THE WITNESS:** Anything separate my
15 attorneys, nothing.

16 BY MR. SCAROLA:

17 **Q** Pardon me?

18 **A** Anything separate from the attorneys,
19 nothing.

20 **Q** Okay. Well, that's not my question.

21 **A** Okay.

22 **Q** Did you ever receive, from anyone, any hard
23 copies of pages that you understood to be generated
24 from the disc?

25 **MR. LINK:** Okay. So, I am going to

1 object to the form.

2 There are thousands of pages that have
3 been produced in this case from the disc.
4 So that general generic --

5 **MR. SCAROLA:** Mr. Link, that's not a
6 legal objection. If you have a legal
7 objection, please state it. Anything other
8 than that is nothing more than an attempt to
9 coach the witness.

10 **MR. LINK:** It's not. It's an objection
11 to the form.

12 **MR. SCAROLA:** That's fine. I
13 understand.

14 BY MR. SCAROLA:

15 **Q** Could you answer the question, please?

16 **A** Could you repeat it?

17 **Q** Yes, sir.

18 Did you ever receive any hard copies of
19 documents, pages, that you understood to have been
20 generated from the disc?

21 **A** Yes.

22 **Q** On how many separate occasions did you
23 receive pages in hard copy form that you understood to
24 have been generated from the disc?

25 **A** I would say less than 20.

1 **Q** Twenty occasions?

2 **A** Less than 20.

3 **Q** Let's go through each of those that you can
4 remember, and tell me about those occasions on which
5 you recall having received hard copies of pages which
6 you understood to have been generated from the disc.

7 **A** Have you asked a question?

8 **Q** Pardon me?

9 **A** Have you asked a question?

10 **Q** Yes.

11 **A** What's the question?

12 **Q** I want you to tell me about each of the
13 occasions -- we will start with the first one,
14 chronologically, when you received hard copies of pages
15 that you understood to have been generated from the
16 Fowler White disc that Mr. Link told you about in
17 February of 2018.

18 **MR. LINK:** Okay, you can answer that
19 specific question. It's a different
20 question.

21 **THE WITNESS:** Sometime in February I
22 was handed, from my attorneys, some
23 documents. Is what I recall. Some
24 documents from my attorneys. I was handed
25 some documents.

1 BY MR. SCAROLA:

2 Q Who specifically handed you those documents?

3 A Darren Indyke.

4 Q Where were you?

5 A I believe in New York. I can't be certain.

6 Q How many pages did Mr. Indyke hand you on
7 that occasion?

8 A Less than 100.

9 Q Were those pages accompanied by any cover
10 letter?

11 A Not that I recall.

12 Q Were they accompanied by any summary of the
13 contents?

14 A Not that I recall.

15 Q Were they accompanied by any index?

16 A Not that I recall.

17 Q What did Mr. Indyke tell you about the
18 documents when he gave him to you?

19 MR. LINK: I'm going to instruct you
20 not to answer that question based on
21 attorney-client privilege.

22 BY MR. SCAROLA:

23 Q What did you do with the documents when you
24 received them?

25 A I read them, to the best of my recollection.

1 **Q** Did you read them in their entirety?

2 **A** I don't recall.

3 **Q** What did the documents say?

4 Let me withdraw that question.

5 If you were asked to recount the content
6 of the documents, as you sit here today, would you
7 be able to describe the contents of the documents?

8 **A** Some of them, I think.

9 **Q** Approximately, how many documents are there
10 as to which you have the ability, as you sit here
11 today, to describe the contents?

12 **A** When you say documents, you mean pages? I'm
13 sorry?

14 **Q** Yes, sir. Pages.

15 **A** Well, I can remember the emails with respect
16 to Brad Edwards --

17 **Q** Excuse me. Pardon me. I'm stopping you,
18 sir. That's no responsive to my question. And I don't
19 want you on this record to be disclosing the content of
20 any privileged documents.

21 My question is not to ask you to describe
22 the content of those privileged documents, but to
23 tell us how many pages of privileged material you
24 have retained a recollection of that would enable
25 you to describe that content as you sit here today.

1 So how many pages?

2 **MR. LINK:** You can answer that
3 question.

4 I want to note for the record that you
5 have made an assertion of privilege. We
6 have challenged that privilege. And no
7 court has ever made a determination that
8 they are, in fact, privileged.

9 With that statement, you have can
10 answer the question, if you can.

11 **THE WITNESS:** I'm sorry. Can you
12 repeat the question?

13 BY MR. SCAROLA:

14 **Q** Yes, sir.

15 As you sit here today, how many pages of
16 the documents that you received from Mr. Indyke --
17 something less than 100 documents --

18 **A** Yes.

19 **Q** -- would you be able to describe the contents
20 of?

21 **A** Again, I could describe the contents in
22 detail on some that I remember. I have generalizations
23 on others.

24 **Q** Let's break it down into two categories. How
25 many pages could you describe the contents of in

1 detail?

2 **A** Less than 10.

3 **Q** And how many pages could you describe the
4 contents of generally?

5 **A** Probably at least another 20.

6 **Q** Are you aware that a claim of privilege has
7 been asserted with regard to any of the documents that
8 you received from Darren Indyke?

9 **MR. LINK:** So, again, if you have
10 independent knowledge, separate and apart
11 from communications with your lawyers, you
12 can answer the question.

13 **THE WITNESS:** I have no independent
14 knowledge.

15 BY MR. SCAROLA:

16 **Q** Are you aware that a claim of privilege has
17 been asserted with regard to any of the documents or
18 pages that you received from Darren Indyke?

19 **MR. LINK:** Same instruction,
20 Mr. Epstein.

21 **THE WITNESS:** Outside of conversations
22 with my attorney, no.

23 BY MR. SCAROLA:

24 **Q** Regardless of where you received the
25 information from, are you aware that a claim of

1 privilege has been asserted with regard to any of those
2 documents?

3 **MR. LINK:** So, Mr. Epstein, the source
4 of information is important. If the source
5 of information are our communications or
6 communications with your lawyers, I do not
7 want you to disclose that.

8 If you have independent information --
9 you have read something, you have seen
10 something outside of our communications --
11 you answer the question.

12 **THE WITNESS:** I have no independent
13 knowledge.

14 BY MR. SCAROLA:

15 **Q** Do you have knowledge that you derived from
16 your lawyers?

17 **MR. LINK:** Generally or about the
18 topic?

19 **MR. SCAROLA:** About that specific
20 topic, the assertion of privilege with
21 regard to any documents.

22 **MR. LINK:** We are not going to disclose
23 any topics or anything that we talked about.
24 I am instructing you not to answer.
25

1 BY MR. SCAROLA:

2 Q Have you ever seen a privileged log that
3 listed any of the documents that you received from
4 Mr. Indyke on that log?

5 A I don't recall.

6 Q Where did Mr. Indyke get the documents that
7 he delivered to you?

8 A I don't know.

9 Q How do you know that the documents Darren
10 Indyke delivered to you were documents that originated
11 on the disc?

12 A Outside of -- I have no independent
13 knowledge.

14 Q So that's information you received from your
15 lawyers?

16 A I have no independent knowledge.

17 Q That's not my question.

18 Is that information you received from your
19 lawyers? So they told you that the documents that
20 you received from Darren Indyke came from the Fowler
21 White disc, correct?

22 MR. LINK: I do not want you to
23 disclose your communications with your
24 lawyers. I am going to instruct you not to
25 disclose any information.

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1 If you can answer any of his questions
2 based on your independent knowledge or
3 review independently from discussion with
4 your lawyers you can answer the question.

5 **THE WITNESS:** I have no independent
6 knowledge.

7 BY MR. SCAROLA:

8 **Q** Have you ever reviewed the transcripts of any
9 hearings that were held either in the circuit court, in
10 the bankruptcy proceeding, or before special master
11 Carney with regard the production of emails.

12 **A** I don't recall.

13 BY MR. SCAROLA:

14 **Q** I am going to hand you what I will mark as
15 Exhibit Number 2 to your deposition. It is an
16 affidavit that purports to have been signed by you and
17 filed in the circuit court proceedings in Palm Beach
18 County.

19 I would like you to take a look at that,
20 please. Tell me if you recognize that document.

21 (Defendants/Counter-Plaintiffs's Exhibit
22 Number 2 was marked for identification.)

23 **MR. LINK:** Mr. Scarola, do you have a
24 copy for me?

25 **MR. SCAROLA:** That's the only one I

1 have.

2 **THE WITNESS:** Okay.

3 BY MR. SCAROLA:

4 **Q** Is that your signature on that affidavit?

5 **A** Yes.

6 **Q** Did you, in fact, swear to the contents of
7 that document?

8 **A** Yes, sir.

9 **Q** You had told us there were something less
10 than 20 occasions in which you received documents that
11 had been originally contained on the Fowler White disc.
12 You told us about one of those occasions when
13 Mr. Indyke handed you documents.

14 What others do you remember?

15 **MR. LINK:** Object to the form. That
16 was not his testimony. That was the second
17 question that you asked.

18 The first question, I believe, was
19 general, as I made a statement thousands of
20 documents were produced.

21 **MR. SCAROLA:** Is this the legal
22 objection that you are making, Mr. Link?

23 **MR. LINK:** It is, Mr. Scarola.

24 **MR. SCAROLA:** Then please state the
25 legal basis of your objection, and don't

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1 attempt to coach the witness.

2 **MR. LINK:** I'm not coaching the
3 witness. I'm correcting your misstatement.

4 **MR. SCAROLA:** That's fine. Your
5 objection is there is no proper predicate
6 for the question.

7 BY MR. SCAROLA:

8 **Q** Can you answer the question please?

9 **MR. LINK:** Mr. Scarola, I am going to
10 finish, please, my objection. Although, you
11 did a good job of disrupting my thought,
12 because I was on a roll there.

13 But in any event, your question --
14 object to the form. It mistakes your prior
15 question and the witness's prior testimony.

16 **THE WITNESS:** Sorry. Could you ask it
17 again?

18 BY MR. SCAROLA:

19 **Q** How many other times -- or tell us about the
20 other times that you received information generated
21 from the Fowler White disc.

22 **A** I don't any specific recollection today.

23 **Q** Can you give us any better estimate as to the
24 number of times you received information from the
25 Fowler White disc other than that it was less than 20?

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1 **A** No.

2 **Q** What did you do with the documents that you
3 received that you understood to have been generated
4 from the Fowler White disc?

5 **MR. LINK:** Object to the form.

6 **THE WITNESS:** I'm sorry. I don't fully
7 understand the question.

8 BY MR. SCAROLA:

9 **Q** What did you do with the documents that
10 Mr. Indyke gave you, which you understood to have been
11 generated from the Fowler White disc?

12 **A** I read them.

13 **Q** And what did you do with them after you read
14 them?

15 **A** I left them on my desk.

16 **Q** Which desk?

17 **A** I don't remember exactly. I believe New
18 York, as I said before.

19 **Q** What happened to those documents after you
20 left them on your desk?

21 **A** After being informed by my counsel, I
22 destroyed them.

23 **Q** How?

24 **A** In a shredder.

25 **Q** When?

1 **A** The same day.

2 **Q** The same day that you received them from
3 Mr. Indyke?

4 **A** The same day I was informed by counsel to
5 destroy them.

6 **Q** And when was that?

7 **A** Some time after February.

8 **Q** When in relation to having received them from
9 Mr. Indyke?

10 **A** Sometime -- right after the court -- Indyke
11 was in February. As soon as the court ordered me to
12 destroy them, I destroyed them.

13 **Q** Did you ever communicate with anyone
14 regarding the contents of those documents?

15 **A** Separate from my attorneys, I don't remember
16 anybody else.

17 **Q** Which lawyers did you communicate with about
18 the content of the documents?

19 **A** Scott Link, Darren, Jack.

20 **Q** Anyone else?

21 **A** Not that I recall.

22 **Q** Was there anyone else at all, at any time,
23 under any circumstance, that you discussed the contents
24 of the documents with?

25 **A** I don't recall anybody except my attorneys.

1 **Q** Did you have any communication with Bradley
2 Edwards regarding the content of those documents?

3 **A** I don't recall.

4 **Q** Since receiving those documents, did you have
5 any communication with Bradley Edwards at all about
6 anything?

7 **A** I don't recall.

8 **Q** When you read the documents that you received
9 from Mr. Indyke, did you learn anything that you had
10 not previously known?

11 **A** Yes.

12 **Q** As you sit here today, would you be able to
13 identify those things that you learned for the first
14 time from among the documents that Mr. Indyke delivered
15 to you?

16 **A** I'm sure I can remember some of them.

17 **Q** Was there anything in those documents that
18 you already knew that was not being disclosed to you
19 for the first time upon delivery of those documents to
20 you?

21 **A** I don't recall.

22 **Q** We have marked as Exhibit Number 2 an
23 affidavit, which you acknowledged to have been signed
24 by you. Have you had a chance to read through that?

25 **A** Yes, sir.

1 **Q** You agree that there is nothing in this
2 affidavit that relates to the content of any emails,
3 correct?

4 **A** I'm sorry. Which emails?

5 **Q** The emails that you received from Darren
6 Indyke.

7 Let's establish that. The pages that you
8 received from Darren Indyke were printouts of
9 emails, were they not?

10 **A** I believe some of them were.

11 **Q** What else was in there besides email
12 printouts?

13 **MR. LINK:** Can you say generally, if
14 you remember, without describing what was
15 provided to you.

16 **THE WITNESS:** My best recollection is
17 emails.

18 BY MR. SCAROLA:

19 **Q** So you have no recollection of there being
20 anything other than emails in the documents that you
21 received from Mr. Indyke, correct?

22 **A** I believe so.

23 Could you ask that question again? You
24 asked me a question. Sorry.

25 **MR. LINK:** I don't think there's any

1 pending --

2 **MR. SCAROLA:** I don't think there's a
3 pending question. There's about to be.

4 BY MR. SCAROLA:

5 **Q** You understood that the purpose of Exhibit
6 Number 2, your affidavit, was to describe all of the
7 information that you relied upon in deciding to sue
8 Bradley Edwards, correct?

9 **A** No, sir.

10 **Q** What was the purpose of this affidavit?

11 **A** It was a general -- it did not fully
12 encompass everything I might have seen prior to signing
13 it. It was a general affidavit.

14 **Q** I'm sorry.

15 **A** It was a general discussion. It didn't list
16 anything I had actually seen before signing this
17 affidavit.

18 **Q** So the affidavit does not include anything
19 that you actually saw before signing the affidavit; is
20 that correct?

21 **A** I don't believe with any specificity, sir.

22 **Q** What does that answer mean? I don't
23 understand that.

24 **A** I might have seen things that are not in this
25 affidavit.

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1 **Q** All right. So what is it that you saw before
2 signing this affidavit that related to your having had
3 a good faith basis for filing the action against
4 Bradley Edwards and Scott Rothstein in December of
5 2018?

6 **MR. LINK:** Mr. Epstein, I am going to
7 instruct you not to answer the question. It
8 far exceeds the scope of the deposition that
9 was authorized by Judge Hafele.

10 This is not a discovery deposition
11 related to the case. Please do not answer
12 the question.

13 BY MR. SCAROLA:

14 **Q** Was there any information contained within
15 the emails that form part of your alleged good faith
16 basis for suing Bradley Edwards?

17 **MR. LINK:** Object to the form.

18 You can answer the question.

19 **THE WITNESS:** Reading the emails in the
20 Darren Indyke documents confirmed everything
21 that was in this affidavit. Yes, sir.

22 BY MR. SCAROLA:

23 **Q** Was there any information contained within
24 the emails that formed part of your good faith basis
25 for suing Bradley Edwards?

1 **MR. LINK:** Again, I am going to
2 instruct you not answer that question. It
3 exceeds the scope of the Court's order.

4 BY MR. SCAROLA:

5 **Q** Are you aware of the specific scope of the
6 inquiry that Judge Hafele permitted during the course
7 of this deposition?

8 Did you ever see his order that outlined
9 what you were allowed to be asked about?

10 **A** Yes.

11 **Q** You are aware tat topic number one was
12 whether and to what extent Epstein reviewed any of the
13 alleged privileged materials prior to March of 2018,
14 correct?

15 **THE WITNESS:** Is that what it says?

16 **MR. LINK:** That's what it says.

17 **THE WITNESS:** Yes.

18 BY MR. SCAROLA:

19 **Q** Did you review any of the allegedly
20 privileged materials prior to March 2018?

21 **A** That's a very general category. Which
22 privilege materials? It's 27,000 emails, so you are
23 going to have to be specific.

24 **Q** Well, when you were preparing for this
25 deposition, did you find out which of those 27,000

1 emails were alleged to be privileged?

2 **A** No.

3 **Q** So as you sit here today, you are incapable
4 of telling us whether you reviewed any of the alleged
5 privileged materials prior to March 2018, because you
6 have no idea what materials are alleged to be
7 privileged? Is that what you're telling us?

8 **MR. LINK:** Object to the form. That it
9 is not what he said.

10 **THE WITNESS:** I have recollection of
11 reading some of the emails.

12 BY MR. SCAROLA:

13 **Q** So did you review any of the allegedly
14 privileged materials prior to March 2018?

15 **A** Again, I understand alleged privileged
16 materials encompass 27,000 emails, so I don't
17 understand your question.

18 **Q** I want to know whether you reviewed any of --
19 any email, which is alleged to have been privileged at
20 any time before March of 2018.

21 **MR. LINK:** Object to the form.

22 **THE WITNESS:** Yes.

23 BY MR. SCAROLA:

24 **Q** How many emails alleged to have been
25 privileged did you review prior to March of 2018?

1 **A** Again, your question.

2 **MR. SCAROLA:** Read it back, please.

3 (Thereupon, the requested portion of the
4 record was read back by the reporter as
5 above duly recorded.)

6 **THE WITNESS:** Can you tell me how many
7 emails have been alleged to be privileged,
8 so we are talking about something --

9 BY MR. SCAROLA:

10 **Q** I want to know which emails you reviewed,
11 which you believed to have been alleged to be
12 privileged, prior to March of 2018.

13 **MR. LINK:** That's a different question.
14 You can -- if you understand, the question
15 you can answer that.

16 **THE WITNESS:** I'm sorry. I didn't --
17 ask it again, please.

18 **MR. SCAROLA:** Please read it back.

19 **MR. LINK:** Jack, do you mind if we try
20 to clarify this so that we can move forward?
21 Because I think I understand what the
22 difficulty is.

23 **MR. SCAROLA:** I would like the question
24 read back to see whether or not Mr. Epstein
25 understands the question.

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1 **MR. LINK:** Okay.

2 (Thereupon, the requested portion of the
3 record was read back by the reporter as
4 above duly recorded.)

5 **THE WITNESS:** I still don't understand
6 the question.

7 BY MR. SCAROLA:

8 **Q** Pardon me?

9 **A** I don't understand the question. Sorry.

10 **Q** You are aware that there are emails which
11 Bradley Edwards alleges to be privileged emails,
12 correct?

13 **A** I am aware that there -- I was told 27,000
14 emails alleged -- in some form to be privileged.

15 **Q** Who told you that Bradley Edwards alleged
16 27,000 emails were privileged?

17 **MR. LINK:** So, I don't want you to
18 share our conversations or conversations
19 with your lawyers.

20 If you can answer that question from
21 whatever documents -- independent review
22 that the order or affidavit -- whatever you
23 have seen related to the bankruptcy
24 proceeding --

25 **THE WITNESS:** I don't believe I have

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1 any independent knowledge.

2 BY MR. SCAROLA:

3 Q You just said you were told that 27,000
4 emails were alleged to have been privileged.

5 A Sorry. That's not that I said. I said --

6 MR. SCAROLA: Would you read back
7 Mr. Epstein's answer, please?

8 MR. LINK: Do you really not want to
9 have a conversation to see if we can fix
10 this confusion?

11 MR. SCAROLA: I really don't want to.

12 (Thereupon, the requested portion of the
13 record was read back by the reporter as
14 above duly recorded.)

15 BY MR. SCAROLA:

16 Q Who told you?

17 A My attorneys.

18 Q Which one?

19 A I don't recall.

20 Q When?

21 A I don't recall.

22 Q Was it before or after March of 2018?

23 A Before.

24 Q Was it before or after February of 2018?

25 A I don't recall.

1 Q What do you remember about that conversation?

2 MR. LINK: Again, I don't want you to
3 share the details of the conversation.

4 MR. SCAROLA: He has already done that.
5 He has already made an assertion of what he
6 was told. That's a waiver of the privilege.

7 I want to know about the conversation
8 in it's entirety.

9 MR. LINK: And I don't believe that it
10 was waiver of the privilege. He gave you
11 non-privileged communication, and he's not
12 going to share with you privileged
13 communications.

14 As you said earlier, every
15 communication isn't privileged. But the
16 discussion would have been.

17 I have let you ask questions about
18 dates and things of that nature that are not
19 privileged, but I am going to instruct him
20 not to answer your question.

21 And again, I offered on the record to
22 discuss with you what I think the impediment
23 is to these general questions, because there
24 were alleged privileged emails that were
25 produced in the litigation, before my law

1 firm was retained, voluntarily by
2 Mr. Edwards and his law firm, so that there
3 had been in the record alleged privileged
4 emails for years in this case, and you have
5 not asked specific questions about the
6 emails that were located by my law firm in
7 February as to your questions.

8 So I think your general questions about
9 alleged privileged emails is not encompassed
10 in what the court has asked or what we are
11 here to talk about, and it's creating
12 confusion, because there were many alleged
13 privileged emails produced years ago.

14 BY MR. SCAROLA:

15 Q Did Mr. Link tell you the things that he just
16 stated on the record at some time prior to today?

17 MR. LINK: You are not going to answer
18 that question, Mr. Epstein.

19 BY MR. SCAROLA:

20 Q Were you told at the time that Mr. Indyke
21 gave you the less than 100 pages, that he said were
22 contained on the disc, that an allegation was made that
23 any of those pages were privileged?

24 THE WITNESS: Can you repeat the
25 question for me, please?

1 (Thereupon, the requested portion of the
2 record was read back by the reporter as
3 above duly recorded.)

4 **MR. LINK:** So if you can answer that
5 general question, because the source of
6 information was from somebody other than
7 Mr. Indyke and or your lawyers then you can
8 answer it.

9 **THE WITNESS:** I cannot answer it
10 separate from that.

11 BY MR. SCAROLA:

12 **Q** Did your lawyers, including Mr. Indyke, tell
13 you, when they handed over those pages to you, that
14 there's an allegation that these pages contain
15 privileged material?

16 **MR. LINK:** I am going to instruct you
17 not to answer it.

18 Do you mind if we take a break?

19 **THE VIDEOGRAPHER:** Going off the record
20 at 10:15 a.m.

21 (A recess was had.)

22 **THE VIDEOGRAPHER:** Going back on the
23 record. The time is 10:26 a.m.

24 BY MR. SCAROLA:

25 **Q** Have you ever communicated with any agent of

1 Fowler White about the disc that was turned over by
2 them to Link & Rockenbach?

3 **A** No. Not to the best of my knowledge.

4 **Q** Have you ever communicated with Tonja or Fred
5 Haddad about the Fowler White disc.

6 **A** Not to the best of my knowledge.

7 **Q** Did you ever receive a copy of the disc
8 itself?

9 **A** No.

10 **Q** Do I understand correctly that you don't
11 recall whether any information contained on disc was
12 transmitted to you electronically; is that correct?

13 **MR. LINK:** Object to the form.

14 **THE WITNESS:** We are only talking about
15 recently, I take it, right?

16 I don't know what information was
17 contained entirely on the disc. I have
18 never seen the disc. I can't give you a
19 answer in terms of what came off the disc in
20 the past 10 years.

21 Can you ask a better question? I'm
22 sorry.

23 BY MR. SCAROLA:

24 **Q** The information you received from Mr. Indyke,
25 you were told, was information that originated on the

1 Fowler White disc, correct?

2 **MR. LINK:** I don't want you to disclose
3 any communications with your lawyers, but --

4 **THE WITNESS:** That is my belief.

5 BY MR. SCAROLA:

6 **Q** Do you have a specific recollection that that
7 information was conveyed to you in hard copy as opposed
8 to having been sent to you electronically?

9 **A** Yell.

10 **Q** Were there any electronic communications that
11 took place at any time that included any information
12 derived from the disc?

13 **MR. LINK:** Object to the form.

14 **THE WITNESS:** It's a bad question. I
15 don't have a time frame. I don't know what
16 was -- came off the discs over the past
17 eight years.

18 BY MR. SCAROLA:

19 **Q** At any time since the beginning of
20 February 2017 -- 2018, was any information conveyed to
21 you electronically, which as you sit here today you
22 believe to have originated on the Fowler White disc?

23 **A** I don't believe so.

24 **Q** Have you had any electronic communications
25 about the content of the Fowler White disc at any time

1 since 2018?

2 **A** With who?

3 **Q** With anyone.

4 **A** Outside of my attorneys, no.

5 **Q** Have you had communications with your
6 attorneys about information contained on the Fowler
7 White discs since February of 2018?

8 **MR. LINK:** I am going to instruct you
9 not to answer that question.

10 BY MR. SCAROLA:

11 **Q** This deposition was noticed duces tecum. You
12 know what that means, correct?

13 **A** No. Sorry.

14 **Q** You don't know.

15 I'm going to hand you what we will mark as
16 Exhibit Number 3.

17 (Defendants/Counter-Plaintiffs' Exhibit
18 Number 3 was marked for identification.)

19 BY MR. SCAROLA:

20 **Q** Can you take a look at it and tell me whether
21 you have ever seen it before?

22 **MR. SCAROLA:** Paul, this is a copy of
23 the Re-Notice of Taking Video Deposition
24 Duces Tecum.

25 **MR. CASSELL:** Thank you, Jack.

1 **MR. LINK:** Let me know when you are
2 finished.

3 **THE WITNESS:** I'm finished.

4 **MR. LINK:** So, Mr. Epstein, you can
5 answer the question -- I don't want you to
6 disclose our communication. But if the
7 question that's asked have you seen
8 physically that document, then you can
9 answer that. But I don't want you to
10 disclose our communications about it and
11 anything we discussed.

12 **THE WITNESS:** I have not seen it
13 before.

14 BY MR. SCAROLA:

15 **Q** Were you informed that you had an obligation
16 to bring with you at the time of this deposition those
17 items that are described on the second page of Exhibit
18 Number 3, quote, All communications and all records
19 relating to all communications concerning or containing
20 information derived from documents or data over which a
21 claim of privilege was asserted by or on behalf of
22 Rothstein Rosenfeldt Adler PA; Farmer, Jaffe, Weissing,
23 Edwards, Fistos & Lehrman, P.L.; or Bradley J. Edwards.

24 **MR. LINK:** I think -- which subpoena
25 duces tecum are you looking at, Jack? Which

1 case?

2 **MR. SCAROLA:** This is the subpoena
3 duces tecum issued in the bankruptcy court
4 proceedings.

5 **MR. LINK:** So in the bankruptcy court
6 proceeding, we filed an objection to the
7 subpoena duces tecum, and you and your law
8 firm never responded, so there are no
9 documents being produced in the bankruptcy
10 matter.

11 BY MR. SCAROLA:

12 **Q** Do you have any documents that fit within the
13 description that I just read?

14 **MR. LINK:** You are not going to answer
15 that question.

16 **MR. SCAROLA:** And the basis for that?

17 **MR. LINK:** I filed my objection and it
18 has sat there for months and you didn't
19 respond to it or move to compel it, I am not
20 going to let him answer any questions about
21 it.

22 BY MR. SCAROLA:

23 **Q** Have you conducted any search of
24 electronically retained data on any communication
25 device or computer that you have used since March of --

1 excuse me -- since February of 2018 to determine
2 whether there is stored on that device any
3 communication or records relating to communications
4 concerning or containing information derived from
5 documents or data over which a claim of privilege has
6 been asserted in these proceedings?

7 **MR. LINK:** So, Mr. Epstein, I do not --

8 I am instructing you not to answer the
9 question on the basis of both our assertion
10 of an objection to the duces tecum that went
11 unanswered in the federal court --
12 bankruptcy court. And secondly, it exceeds
13 the scope of the deposition in the
14 bankruptcy court, which was limited to
15 asking you whether you had the disc or were
16 aware of the disc that is subject to the
17 bankruptcy proceeding before it was
18 delivered -- before I located it. So I
19 going to instruct you not to answer.

20 BY MR. SCAROLA:

21 **Q** I am going to mark as Exhibit Number 4 the
22 Re-Notice of Taking Video Deposition Duces Tecum in the
23 circuit court proceedings.

24 (Defendants/Counter-Plaintiffs' Exhibit
25 Number 4 was marked for identification.)

1 BY MR. SCAROLA:

2 Q Had that to you, sir, and ask you whether you
3 have seen that before.

4 MR. LINK: Again, you can answer that
5 specific question. I don't wanted you to
6 testify or disclose about our communications
7 that relate to that exhibit, but you can
8 answer his very specific question.

9 THE WITNESS: No.

10 BY MR. SCAROLA:

11 Q Were you aware that you had an obligation to
12 bring with you at the time of this deposition all
13 documents tending to establish whether and to what
14 extent Epstein reviewed any of the alleged privileged
15 materials prior to March 2018; whether and to what
16 extent Epstein reviewed any of the alleged privileged
17 materials after March 2018; whether Epstein has any
18 knowledge regarding compliance with the Court's verbal
19 rulings on the record at the March 8th, 2018 hearing
20 regarding destruction of those documents Edwards has
21 claimed are privileged; whether and so what extent
22 Epstein has shared any of alleged privileged materials
23 with anyone other than his attorneys, understanding
24 that the documents are described as including, but not
25 limited to all non-identical copies of writings,

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1 drawing, drafts, charts, photographs, phono-records,
2 recordings, and/or any other data complications from
3 which information can be obtained, translated, if
4 necessary, by the party to whom the request is directed
5 through detection devices into reasonably useable form.

6 Documents also include all electronic data
7 as well as application metadata and system metadata.
8 All inventories and rosters of information
9 technology systems for example hardware, software
10 and data, including but not limited to network
11 drawings, lists of computing devices, servers, PCs,
12 laptops, PDAs, cell phones with data storage and/or
13 transmission features, programs, data maps and
14 security tools and protocols.

15 **MR. LINK:** So, we filed a written
16 response and objection to the request. We
17 have asserted attorney-client privilege
18 where appropriate. We identified where no
19 documents existed. We, in fact, produced
20 the only responsive non-privileged
21 documents.

22 I will note for the record,
23 Mr. Scarola, that we did all of that in
24 advance of this deposition, even though we
25 weren't required to do so but the Florida

1 Rules of Civil Procedure that gave us 35
2 days, I believe, to do that with mailing,
3 and that information and objections and
4 documents have been produced.

5 BY MR. SCAROLA:

6 Q Did you search the data storage of any cell
7 phone that you used in order to make a determination as
8 to whether any of those items described in this duces
9 tecum exist?

10 MR. LINK: I am going to instruct you
11 not to answer. We have filed our written
12 response to the subpoena duces tecum.

13 As I just said, we did it in advance of
14 deposition, even though we weren't required
15 to, under the Florida rules of Civil
16 Procedure, and we have produced all
17 non-privileged documents.

18 BY MR. SCAROLA:

19 Q And I am entitled to know whether any search
20 was conducted in connection with this duces tecum.
21 Would you answer that question, please?

22 MR. LINK: I am going instruct you not
23 to answer it.

24 BY MR. SCAROLA:

25 Q Did you search any home computer, or other

1 device capable of electronically storing data, to
2 determine whether any documents exist within the scope
3 of the request that I have just read?

4 **MR. LINK:** I'm going to instruct you
5 not to answer.

6 Let the record reflect Mr. Epstein
7 testified that he shredded the hard copies
8 that he had. That's what he remembers
9 receiving. We will stand by our written
10 objections and production.

11 BY MR. SCAROLA:

12 **Q** As you sit here today, do you know whether
13 there is any data on any electronic storage device that
14 relates in any way to the content of the Fowler White
15 disc?

16 **MR. LINK:** Mr. Epstein, you can answer
17 that specific question, but you may not
18 disclose any communications between you and
19 your attorneys.

20 **MR. SCAROLA:** That doesn't ask for any
21 communications between Mr. Epstein and his
22 lawyer.

23 BY MR. SCAROLA:

24 **Q** I would like to know whether, as you sit here
25 today, you know whether there is any electronic data

1 stored on any device, to which you have access, that
2 contains any information derived from the Fowler White
3 disc.

4 **A** Since I'm not really sure what total
5 information contained from the Fowler White disc of at
6 least 27,000 emails -- and you referenced something as
7 being derived from it -- I would not be able to have
8 any recollection -- any way possible to search in any
9 way to see if there's anything that's been derived from
10 27,000 emails.

11 **Q** Do you have files on any electronic storage
12 device that relate to this litigation?

13 **MR. LINK:** Over the last 10 years?

14 BY MR. SCAROLA:

15 **Q** As you sit here today, do you know whether
16 there is any electronic data on any electronic data
17 storage device that relates to this litigation?

18 **MR. LINK:** I am going to object to the
19 form. It is not limited -- I am going to
20 instruct you not the answer. It is
21 unrelated to the bankruptcy proceeding and
22 Judge Hafele's topics.

23 If you want to try to narrow it,
24 Mr. Scarola. I obviously communicated with
25 Mr. Epstein, to this day, sometimes

1 electronically.

2 If you want to tie it in to the Court's
3 order, then we will see if he can answer it.

4 **MR. SCAROLA:** My question stands. And
5 he is instructed not to answer that
6 question?

7 **MR. LINK:** Yes, sir.

8 BY MR. SCAROLA:

9 **Q** Thank you.

10 Mr. Epstein, have you made any effort to
11 determine whether there is anything on any
12 electronic storage device to which you have access,
13 which information was generated since February of
14 2018, relating to the contents of the Fowler White
15 disc?

16 **MR. LINK:** I am going to instruct you
17 not to answer.

18 **MR. SCAROLA:** And the basis of that
19 instruction?

20 **MR. LINK:** It exceeds the scope of the
21 deposition of bankruptcy proceeding and
22 Judge Hafele's specific order, and our
23 objections that we filed in the circuit
24 court and the bankruptcy court.

25

1 BY MR. SCAROLA:

2 Q Are you aware of the entry of an order
3 requiring that all information derived from the Fowler
4 White discs be destroyed or purged?

5 A You said derived from. I'm sorry. That's
6 the problem I am having with your question.

7 MR. LINK: Object to the form. Thank
8 you.

9 BY MR. SCAROLA:

10 Q Would you answer the question please?

11 A I don't know what derived from means. I'm
12 sorry.

13 MR. LINK: As we have discussed, when
14 you say the Fowler White disc, that a -- I'm
15 assuming you mean the one that my law firm
16 discovered. The disc generated thousands --
17 10s of thousands of pages that were produced
18 in this litigation.

19 These depositions -- this deposition we
20 are here for today is limited by court order
21 to the disc that I -- that my law firm
22 located and received in February.

23 MR. SCAROLA: That's the Fowler White
24 disc, isn't it.

25 MR. LINK: No. I don't know that it

1 is.

2 **MR. SCAROLA:** That's the question that
3 I'm asking. The question I am asking relate
4 specifically to the Fowler White disc and
5 whether Mr. Epstein is aware of the entry of
6 an order that required the destruction or
7 purging of all information alleged to be
8 privileged derived from the Fowler White
9 disc.

10 **MR. LINK:** By definition we are now
11 limiting that to the disc which my office
12 started reviewing on February 25th, 2018.
13 If that's your clarification for all the
14 questions, then let me hear the question
15 again.

16 **THE WITNESS:** I don't know what derived
17 from a disc with untold amount of
18 information on it means. Sorry.

19 BY MR. SCAROLA:

20 **Q** I mean came from.

21 **A** No.

22 **Q** Data that came from the disc, printouts that
23 came from the disc, information that came from the disc
24 that was obtained from Fowler White and acquired,
25 allegedly, sometime in February 2018 from Fowler White

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1 to Link & Rockenbach.

2 Do you now understand the question, sir?

3 **A** No. I don't not.

4 **MR. LINK:** I don't either.

5 Jack, are you asking him whether he as
6 retained any of the allegedly privilege
7 emails --

8 **MR. SCAROLA:** No. I was asking him
9 whether he's aware of an order --

10 **MR. LINK:** Can I please finish, please?

11 Are you asking him -- because the
12 question has changed -- are you asking him
13 has he retained any of the copies or
14 electronic copies of the documents that are
15 the subject of the bankruptcy proceeding
16 that were located by my law firm from a disc
17 that we started reviewing on February 25th,
18 2018? I think that's a legitimate question,
19 pursuant to both -- well, pursuant to Judge
20 Hafele's order, not pursuant to the
21 bankruptcy order.

22 But your question hasn't been tailored
23 that way.

24 **MR. SCAROLA:** And that's because that's
25 not the question I'm asking.

1 BY MR. SCAROLA:

2 Q I want to know whether you are aware of the
3 entry of an order that restricted your possession of
4 any information that was derived from the disc that
5 Link & Rockenbach obtained from Fowler White in
6 February of 2018.

7 A The word derived -- any conversation that
8 anybody had in any way attached to that information, I
9 cannot answer that question.

10 If you are asking me the question
11 specifically -- you have to be more specific.
12 Derived from -- I don't know what derive means.

13 MR. LINK: It can encompass our
14 conversations.

15 THE WITNESS: It can encompass many
16 conversations, and subjects not related to
17 this hearing (sic).

18 BY MR. SCAROLA:

19 Q Are you aware of the entry of a court order
20 that prohibited you from obtaining possession of any
21 documents or electronic data that originated on the
22 specific copy of the disc that had been in Fowler
23 White's files and was turned over in copy form to Link
24 & Rockenbach in February of 2018?

25 MR. LINK: I object to the form. I

1 don't think there's an order that says that.

2 Do you have a court order you are
3 referring to?

4 **THE WITNESS:** May I see a court order.

5 BY MR. SCAROLA:

6 **Q** Are you aware of any court order restricting
7 you possession of that information?

8 **A** May I see the court order?

9 **Q** No, sir. I want to know whether you are
10 aware of any court order that restricted your
11 possession of that information?

12 **A** I don't know what that information you are
13 referring to.

14 **Q** The information that was contained --

15 **A** Are you going to let me finish?

16 **MR. LINK:** Let me -- let's take a
17 pause. I think the problem we're having is
18 that the court order -- there's no court
19 order that says he has to flush his memory.

20 **THE WITNESS:** Excuse me. Is there a
21 court order?

22 **MR. LINK:** There is no court order that
23 says what Mr. Scarola says.

24 Mr. Epstein has already answered your
25 question that he received documents and he

1 shredded them when I instructed him of Judge
2 Hafele's oral ruling on March 8th, 2018.

3 BY MR. SCAROLA:

4 Q What do you know about that March 8th, 2018
5 order?

6 MR. LINK: Mr. Scarola -- Mr. Scarola,
7 this is -- no reason to get aggressive and
8 be upset. If there's an order that you
9 have -- because what you have recited is not
10 accurate. If you have an order, please show
11 us.

12 BY MR. SCAROLA:

13 Q Are you aware of an order entered by Judge
14 Hafele in March of 2018 that related to the contents of
15 the disc obtained from Fowler White's files?

16 MR. LINK: Mr. Scarola, that is a
17 misrepresentation. There was no order
18 entered. There was a verbal ruling, which
19 we complied with and filed, I believe, at
20 least two notices of compliance. So you are
21 misstating what transpired in March of 2018
22 to this witness.

23 BY MR. SCAROLA:

24 Q Are you aware of any verbal ruling, whether
25 Mr. Link chooses to characterize, as order or something

1 other than an order, relating to the retention of
2 documents or data derived from the Fowler White disc
3 that Link & Rockenbach obtained from the files of
4 Fowler White?

5 **A** I am going to take -- you will have -- again,
6 if you choose your words more carefully, I would
7 appreciate it. I don't know what derived from means.

8 **Q** Is it derived that you don't understand the
9 meaning of, or from that you don't understand the
10 meaning of?

11 **A** Derived from.

12 **MR. LINK:** It includes our
13 conversations, Mr. Scarola, that's the
14 issue.

15 **MR. SCAROLA:** Except that the question
16 relates to documents or data.

17 BY MR. SCAROLA:

18 **Q** Are you aware of the entry of an order or the
19 issuance of a ruling or the pronouncement of any court
20 that restricted retention of documents or electronic
21 data that was obtained from --

22 **A** Thank you.

23 **Q** -- the disc that Link & Rockenbach got from
24 Fowler White's files?

25 **A** Yes.

1 **Q** What do you understand that ruling, order or
2 direction to be?

3 **A** I was to have destroyed my copies I had of
4 those emails.

5 **Q** Did you have any understanding as to whether
6 that order, direction or ruling related to anything
7 other than hard copies that you had?

8 **A** Anything -- I believe anything I had.

9 **Q** And that would include any electronic data
10 that you had, correct?

11 **A** I believe so.

12 **Q** Did you make any effort whatsoever to
13 determine whether you had any electronic data that fell
14 within the scope of that ruling?

15 **A** Yes.

16 **Q** What did you do?

17 **A** I don't remember.

18 **Q** Is whatever you did an action that you took
19 personally or did it involve anyone else's efforts?

20 **A** Separate from my attorneys, I don't believe
21 so.

22 **Q** Did you engage your attorneys to attempt to
23 determine whether there was any electronic data that
24 you had that fell within the scope of the Court's
25 ruling, direction or order?

1 **MR. LINK:** I am going to instruct not
2 -- A, I am going to object to the form. And
3 I don't understand the question. But I am
4 going to object to you discussing --
5 answering any question about what we
6 discussed.

7 **MR. SCAROLA:** I haven't asked what you
8 discussed. I am trying find out whether
9 anything was done to comply with the Court's
10 order, which Mr. Epstein has said he
11 understood to include purging electronic
12 data.

13 **MR. LINK:** Then ask him --

14 **MR. SCAROLA:** If he said --

15 **MR. LINK:** Ask him, Did you have any
16 data and you looked, did you delete it, and
17 he will answer that question. Just like he
18 said he shredded the hard copies.

19 BY MR. SCAROLA:

20 **Q** Did you look for any electronic data?

21 **A** I don't believe I had any.

22 **Q** Did you look for any electronic data?

23 **A** I don't believe I had any.

24 **Q** Let me try a third time.

25 **A** Okay.

1 **Q** Did you look for any electronic data or did
2 you assume, because you didn't think you had any, that
3 there was no need to look?

4 **A** I don't recall.

5 **Q** Did you engage the services of anyone else to
6 attempt to determine whether you had any electronic
7 data that you understood you were not supposed to have?

8 **A** Not to the best of my recollection.

9 **Q** What devices do you have upon which
10 electronic data could be stored?

11 **MR. LINK:** I am going to object to the
12 form and instruct you not to answer the
13 question as framed.

14 **MR. SCAROLA:** I have no further
15 questions of Mr. Epstein subject to our
16 ability to re-examine him with regard to all
17 improper objections that have been raised,
18 and with regard to items not produced that
19 fall within the scope of the duces tecum of
20 both notices.

21 **MR. LINK:** So you have completed both
22 the circuit court and the bankruptcy
23 deposition?

24 **MR. SCAROLA:** That is correct.

25 **MR. LINK:** Mr. Cassell, do you have --

1 **MR. SCAROLA:** Actually, it is not
2 correct. I'm telling you they are not
3 completed --

4 **MR. LINK:** Subject to your
5 reservations.

6 **MR. SCAROLA:** Right.

7 **MR. LINK:** I got that.

8 Mr. Cassell, do you have questions for
9 L.M. in the bankruptcy proceeding?

10 **MR. CASSELL:** I do.

11 **MR. LINK:** Okay. So I want the record
12 to be clear, Mr. Cassell, that you do not
13 have permission by the circuit court to ask
14 any questions in the circuit court.

15 The bankruptcy court has allowed you to
16 ask questions on behalf of L.M., directed
17 only in the bankruptcy proceeding, and
18 the -- my question is do you have questions
19 about the bankruptcy proceeding that have
20 not been asked by Mr. Scarola?

21 **MR. CASSELL:** I do.

22 **MR. LINK:** Okay.

23 **MR. CASSELL:** And for the record, I
24 would like to disagree with your assertion
25 that we have been denied the opportunity to

1 ask questions by the circuit court.

2 It is our position that by virtue of
3 having intervened in that matter, and in
4 particular with matters connected to those
5 that are being discussed today, we have the
6 right to ask questions.

7 **MR. LINK:** There's actually a court
8 order, Mr. Cassell, that gives Bradley
9 Edwards permission to ask questions. There
10 is no court order giving the interveners the
11 right to ask questions. So I want to be
12 clear we have closed the circuit court
13 proceeding, because the only party that had
14 permission, pursuant to Judge Hafele's order
15 to ask questions, was Mr. Edwards, and
16 Mr. Scarola -- subject to your reservations,
17 Jack -- has finished his deposition of the
18 circuit court.

19 So we are now closing that matter and
20 moving forward on the bankruptcy matter for
21 additional questions by Mr. Cassell on
22 behalf of L.M., and by Mr. Ianno on behalf
23 of Fowler White.

24 **MR. SCAROLA:** And it is our position on
25 behalf of Brad Edwards that once an

1 intervention has been granted and permission
2 is given to take discovery in the proceeding
3 to any party, every other party, including
4 interveners to that proceeding, have a right
5 to participate in the discovery process.

6 **MR. LINK:** We will see what Judge
7 Hafele says.

8 Mr. Ianno --

9 **MR. IANNO:** Well, I think what we need
10 to do is do the read or waive and then just
11 splice it and start -- not to continue it.
12 We will just close it off entirely and have
13 the videographer start a whole new file and
14 the court reporter start a whole new file.

15 **MR. LINK:** So, yes --

16 **MR. CASSELL:** Before we do that, I just
17 need to ask two small things for the record.
18 It will take about 30 seconds.

19 First, I join in the statement that
20 Mr. Scarola just made. And second, I would
21 amplify that it was my understanding that
22 Mr. Epstein understood he could have
23 questions asked of him today through his
24 attorneys -- and, of course, there's no
25 court order permitting that -- just as a

1 defendant in an action is allowed to ask
2 questions during a deposition, such as this
3 one, interveners are allowed to ask
4 questions, particularly where the subject
5 matter at issues goes directly to the
6 interest of the interveners, which is the
7 privacy of their own confidential
8 information, which was the subject that I
9 intended to ask questions about.

10 **MR. LINK:** I understand. So we are
11 going to not waive. We will read, please.

12 And this closes the circuit court
13 proceeding. We understand your objections,
14 Mr. Cassell, and Mr. Scarola's reservations
15 to go back before Judge Hafele. And if we
16 are instructed to come back, we will come
17 back.

18 **THE VIDEOGRAPHER:** Going off the
19 record. The time is 11 a.m. This marks the
20 end of the deposition.