

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CASE NO. 4D18-0762

JEFFREY EPSTEIN,

Petitioner,

-vs-

SCOTT ROTHSTEIN,
individually, BRADLEY J.
EDWARDS, individually, and
L.M., E.W., and JANE DOE,
Intervenors.

Respondents

**JOINDER BY VICTIMS IN EDWARDS' MOTION FOR PARTIAL
RELIEF FROM STAY WITH REQUEST FOR EXPEDITED
CONSIDERATION**

Victims L.M., E.W., and Jane Doe (hereinafter "the victims"),
intervenor/respondents in this case, hereby file this Joinder in Edwards' Motion for
Partial Relief from Stay and requested expedited consideration.

Request for Expedited Consideration

At issue is an effort by the trial court judge, Judge Hafele, to retrieve
apparently stolen emails containing confidential and attorney-client protected
information about three sex abuse victims that have been improperly obtained by the
man who sexually abused them. The Court's current stay is interfering with the

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victims' ability to protect their interests in their protected materials, and the victims' respectfully seek expedited consideration of their motion. Respondent Edwards has also sought expedited consideration of his related motion.

Relief Requested

As the Court is aware from other pleadings in this matter, this case involves an alleged serial sex offender, Jeffrey Epstein. Among Epstein's many victims were three then-minor girls, ■■■■, E.W., and Jane Doe. The victims are currently attempting to secure return to the trial court of sensitive – and apparently stolen – attorney-client privileged information. The trial court recently ordered Epstein to return all copies of these materials to it. Epstein, however, is now taking the position that he need not immediately comply because of this Court's recent stay. The victims ask that this Court to limit its stay to the trial-related issue presented in the mandamus petition, so they can move forward to recover their protected materials.

Background Surrounding the Theft of Privileged Materials

The trial court recently ordered Epstein to return privileged attorney-client protected communications to it under seal. *See* Excerpts from Hearing, Exhibit A at pp. 74, 89. The court's ruling was based on detailed evidence submitted at a hearing that Epstein, apparently acting through his attorneys, had obtained confidential and attorney-client privileged information about the very victims he had sexually abused. Epstein's attorneys appear to have surreptitiously obtained this information in

violation of a federal bankruptcy court order. *See* Supplement to Edwards' Mot. to Strike, Exhibit B at pp. 1-3. In particular, U.S. Bankruptcy Judge Raymond B. Ray of the U.S. Bankruptcy Court of the Southern District of Florida entered an explicit order that Epstein's attorneys (at the Fowler White law firm) would merely print out thousands of protected communications of Edwards as an administrative convenience to him in developing a privilege log, but would not maintain any copies:

[T]he law firm of Fowler White Burnett, [REDACTED], will print a hard copy of all of the documents contained on the discs with Bates numbers added, and will provide a set of copied, stamped documents to the Special Master and an identical set to Farmer, who will use same to create its privilege log . . . **Fowler White will not retain any copies of the documents contained on the discs provided to it, nor shall any images or copies of said documents be retained in the memory of Fowler White's copiers. Should it be determined that Fowler White or Epstein retained images or copies of the subject documents on its computer or otherwise, the Court retains jurisdiction to award sanctions in favor of Farmer, Brad Edwards or his client.**

Exhibit B at 2 (emphasis added).

In spite of that clear order from Judge Ray, Epstein's lawyers appear to have flagrantly disregarded the judge's clear instructions by creating a separate disk containing all the confidential materials. *Id.* at 3. And then, quite remarkably, these "stolen documents," (Exhibit A at 79) about the victims have found their way into the hands of the man who had sexually abused them. *Id.* at 80. Epstein's attorneys at Fowler White now claim to have no memory of the events surrounding this improper creation and retention of the separate disk. *Id.* at 72.

Judge Hafele's Order Responding to the Apparent Theft

Because of the evolving circumstances surrounding the apparent theft of these confidential materials, Judge Hafele directed Epstein's current counsel to simply file all the materials with him under seal, thereby permitting him to control the materials until things could be sorted out. Exhibit A at pp. 74, 89. Epstein's current counsel stipulated to the order. *Id.* at 74.

This Court's Stay Is Interfering with Implementing Judge Hafele's Order

Judge Hafele entered his order orally on the afternoon of Thursday, March 8. Before a confirming written order could be agreed among all counsel, this Court entered a stay of "all proceedings" below on the afternoon of Friday, March 9. Epstein's counsel now takes the position that victims' counsel failed to act with due diligence in securing a written order from Judge Hafele before this Court's entry of its stay on the afternoon of March 9. But victims' counsel was never notified that Epstein's counsel would be attempting to seek a stay of all proceedings below – and, even more disturbingly, Epstein's counsel never served victims' counsel with either the mandamus petition or the motion for a stay, despite the victims having intervened below. When learning of the petition on Friday, victims' counsel immediately asked Epstein's counsel to advise this Court that the victims had intervened below and had an interest in these appellate proceedings, but Epstein's counsel declined to do so.

Reasons for Partial Lifting of the Stay

This Court's stay of "all proceedings" is interfering with Judge Hafele's diligent and important efforts to retrieve and secure the apparently stolen documents. One main problem now is that Epstein's counsel are taking the position that they need not deliver the confidential materials to Judge Hafele because, in Epstein's counsel's view, to make delivery of the materials to him would violate the stay.

Another main problem is that the Epstein's counsel are taking the position that it would violate the stay for Judge Hafele to enter a written order implementing his oral rulings.

A further problem is that disputes have arisen about the scope of Judge Hafele's oral order. Epstein's counsel contend that they are entitled to make further copies of all the confidential materials for "appellate purposes." The victims believe that they are not entitled to make any further copies pending further action by Judge Hafele.

Yet another problem is that the victims would like to seek further orders from Judge Hafele, as he explicitly permitted them to do. *See* Exhibit A at 92. For example, the victims are concerned that their abuser, Epstein, has apparently reviewed these confidential materials but has not, so far as the victims can determine, surrendered his materials or agreed to limit their further distribution. The victims cannot seek such orders with regard to Epstein while a broad stay is in place.

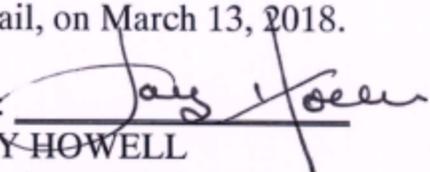
Conclusion

Judge Hafele's efforts to retrieve apparently stolen materials and to limit the damage done from their flagrantly improper distribution are being compromised by this Court's stay. And this Court's stay, entered on a mandamus petition relating solely to issues regarding the commencement of the *trial* of the case below, need not extend beyond empaneling a jury to protect any alleged interest of Epstein.

Wherefore, Respondent/Intervenor victims ask this Court to lift the stay of the lower court proceedings with respect to all matters other than the empaneling of a jury.

CERTIFICATE OF SERVICE

Counsel hereby certify that a true copy of the foregoing was furnished by mail to The Honorable Donald W. Hafele, 205 N. Dixie Highway, Room 10.1216, West Palm Beach, FL 33401, and to all counsel on the attached service list, by email, on March 13, 2018.

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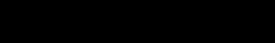
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SERVICE LIST

Epstein v. Rothstein/Edwards

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