

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  
MOTION FOR PROTECTIVE ORDER AND IN LIMINE  
OF UNRELATED SETTLEMENTS

Plaintiff/Counter-Defendant, Jeffrey Epstein (“Epstein”), moves for a protective order pursuant to Florida Rule of Civil Procedure 1.280(c) on the production and disclosure of any additional confidential settlement agreements and amounts and moves in limine pursuant to section 90.104, Florida Statutes (2017), to preclude from use at trial the confidential settlement agreements and amounts and for a finding that such are inadmissible evidence, and states:

INTRODUCTION

Defendant/Counter-Plaintiff Bradley J. Edwards (“Edwards”) represented three plaintiffs who brought tort claims seeking money damages against Epstein. Edwards possesses the confidential settlement agreements of his three clients (the “Three Tort Claimants”) and improperly publicly disclosed the confidential amounts in Court filings in this lawsuit. Edwards has argued that Epstein’s filing of the original civil proceeding against Edwards was motivated by a desire to silence these Three Tort Claimants and possibly others. Epstein denies this motivation

and maintains his probable cause was grounded in media reports of the Rothstein Ponzi scheme and the realization of the possible connection for Edwards' litigation behavior unrelated to the claims of his three clients.

Court's Ruling and Epstein's Compliance

Epstein respects this Court's ruling as to the broad net of discovery. In this Court's Order rendered January 5, 2018 (D.E. 1136)<sup>1</sup>, Epstein was ordered (and will comply) to disclose "the number of claims settled" by Epstein from December 6, 2007 to December 6, 2009, and the "gross settlement amount." The same was ordered and will be produced for the period December 7, 2009 through the present.

In his November 17, 2017, Revised Omnibus Motion in Limine, Epstein asked the Court to exclude testimony or evidence that Epstein settled prior or subsequent claims, suits or settlements, including the amounts, for plaintiffs not represented by Edwards and to exclude as trial evidence Edwards' Exhibit No. 119, "All Settlement Agreements between Epstein and victims of his sexual molestations." (D.E. 1070, Sections B.1 and E.) At the hearing preliminarily addressing the non-disclosed trial exhibit, Edwards made an *ore tenus* motion to compel production of all other settlement agreements. (12/5/17 Tr. 230:21-23.)<sup>2</sup>

This Court deferred ruling on these issues and asked Epstein to separate the issues out and set his Motion for a half-hour special set hearing. (12/5/17 Tr. 230:21-231:5; 235:5-9) (12/7/17 Tr. 14:12-19)<sup>3</sup>. The Court recognized that the settlement agreements contained confidentiality provisions that would need to be addressed in Epstein's Motion. (12/7/17 Tr. 12:23-13:24.) In addition, while the Court ordered Epstein to disclose the total number of claims and the gross

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<sup>1</sup> A copy of the Court's January 5, 2018, Order is attached as **Exhibit A**.

<sup>2</sup> Excerpts of the December 5, 2017, hearing transcript are attached as **Exhibit B**.

<sup>3</sup> Excerpts of the December 7, 2017, hearing transcript are attached as **Exhibit C**.

aggregate settlement amount paid during the two-year period before December 7, 2009, and the period after December 7, 2009, it deferred ruling on the admissibility of those amounts and the confidential settlement agreements themselves until the issues had been fully briefed and heard. (12/7/17 Tr. 11:14-12:22.) (D.E. 1136.) The confidential settlement agreements and individual and aggregate settlement amounts have no relevance and, if any, their probative value is substantially outweighed by the prejudice to and privacy rights of the settling claimants.

*Discovery of Individual Names and Amounts Not Reasonably Calculated to Lead to Discovery of Admissible Evidence*

Epstein seeks to protect from disclosure the confidential settlement agreements of individuals who were not represented by Edwards. The form of those confidential settlement agreements is substantially the same as the settlement agreements entered into by Edwards' clients, except for the individual names and amounts. They all contain reciprocal confidentiality provisions. That provision in the Three Tort Claimants' settlement agreements provides, in pertinent part, that:

The parties agree that the amount of this settlement shall be kept strictly confidential and shall not be disclosed at any time to any third party, except, (1) to the extent required by law or rule; (b) to the extent necessary in connection with medical treatment, legal, financial, accounting or tax services, or appropriate tax reporting purposes (only if necessary); or (c) in response to a validly issued subpoena from a governmental or regulatory agency.

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The Parties further agree that the Parties shall not provide any copy, in whole or in part, or in any form, of this Settlement Agreement to any third party, except to the extent required by law or rule or in response to a validly issued subpoena from a governmental or regulatory agency. Moreover, neither this Settlement Agreement, nor any copy hereof, nor the terms hereof shall be used or disclosed in any court, arbitration or other legal proceedings, except to enforce the provisions of this Settlement Agreement.

To the extent a party is served with a Subpoena or otherwise compelled to disclose the settlement agreement or terms thereof, the other party must be given notice and time to commence the necessary proceedings to obtain a court order preventing, limiting or otherwise restricting such disclosure. In light of the confidentiality provision, even if this Court ordered Epstein to produce the settlement agreements, individual settlement amounts or individual settlement terms relating to tort claimants who were not represented by Edwards (“Any Other Tort Claimants”), Epstein would be required to give each Tort Claimant notice which could result in further court proceedings (before the courts that have jurisdiction over each specific settlement agreement). Not only is this a waste of time and judicial resources, but it could result in inconsistent rulings.

In any event, any additional disclosure sought by Edwards would only serve to expose the names of the claimants. Epstein seeks this Court’s protective order for those names and the individual amounts paid to each because this information is not reasonably, or even remotely, calculated to lead the discovery of admissible evidence. The names of individuals not represented by Edwards and the individual amounts attributed to each of those individual’s settlement is solely being sought to unfairly prejudice Epstein and to make public the names of the women who deserve and settled with confidential anonymity.

*No Relevance and Prejudice Far Outweighs Any Probative Value*

As for admissibility, the net narrows and Epstein moves this Court for an order prohibiting the reference by argument or testimony and the admission into evidence of the settlement agreements and specific amounts paid in each settlement.

How can introducing the individual settlement agreements (which are hearsay) and individual settlement amounts help the jury determine a fact in issue?

The Court has already determined that, while the parties may generally speak about the number of claims in terms of volume that Epstein was facing at the time he initiated and continued this proceeding, the details, the merits and what may have been discovered in cases against Epstein which were not prosecuted by Edwards would not be individually admissible into evidence. (12/7/17 Tr. 4:25-5:24.) Going further, Epstein asks the Court to find that disclosing the general number of settled claims and the aggregate settlement amounts does not provide any probative value but, rather would be unduly prejudicial to Epstein and would tend to mislead or confuse the jury because the information would be provided with no context to the underlying details of the claims of plaintiffs not represented by Edwards and Epstein's defenses to those claims.

Because Any Other Tort Claimants who were not represented by Edwards, and who are nonparties to this action, deserve personal privacy for which they contractually negotiated as "confidential" in those very settlement documents, any order compelling disclosure of this private information would run afoul of the settlement agreement, the Florida Constitution, and Florida's discovery rules. The order would therefore be reversible on appeal in an extraordinary writ because "*the disclosure of personal financial information may cause irreparable harm to a person forced to disclose it, in a case in which the information is not relevant.*" *Straub v. Matte*, 805 So. 2d 99, 100 (Fla. 4<sup>th</sup> DCA 2002).

### **ARGUMENT**

**A. Epstein Seeks an Order Protecting from Disclosure the Names and Amounts of Any Other Settling Tort Claimants and Production of Confidential Settlement Agreements Based on the Florida Constitution and Florida Discovery Rules**

This request for protection from disclosure pertains to Any Other Tort Claimants – other than the Three Tort Claimants Edwards represented.

Pursuant to Florida Rule of Civil Procedure 1.280, upon motion by a party, and for good cause shown, this Court may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; ...and (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court. *See Fla. R. Civ. P. 1.280.*

Settlements of claims by alleged victims and Epstein are exactly the type of discovery Rule 1.280 was intended to address. Rule 1.280 requires this Court to protect not only Epstein, but the alleged victims who are not parties to this litigation, from embarrassment, oppression, or undue burden. Furthermore, Florida's Constitution contains an express right to privacy, and a person's financial information is among the material protected by that right to privacy. Art. I, § 23, Fla. Const. ("Every natural person has the right to be left alone and free from governmental intrusion into his private life except as otherwise provided herein."); *Allen v. State Farm Florida Ins. Co.*, 198 So. 3d 871, 873 (Fla. 2d DCA 2016). Although there is no list in our constitution as to those matters encompassed by the term *privacy*, it was apparent to the Fourth District Court of Appeal that personal finances are among those private matters kept secret by most people. *Woodward v. Berkery*, 714 So. 2d 1027, 1035 (Fla. 4<sup>th</sup> DCA 1998); *citing Winfield v. Division of Pari-Mutuel Wagering*, 477 So. 2d 544 (Fla. 1985) (law in Florida recognizes an individual's legitimate expectation of privacy in individual's private bank account, financial records).

Any order from this Court requiring the production of settlement agreements of Any Other Tort Claimants who has nothing to do with Edwards, and has no legitimate impact on liability, value or damages of Edwards' claim in this action, would be a departure from the essential requirements of law and reversible on appeal. *See Allen, supra; Woodward, supra.*

Therefore, Epstein requests that this Court enter an order protecting Any Other Tort Claimants and Epstein (the only parties to the confidential settlement agreements). The settlement agreements (and payments) are not an admission of and do not reflect the amount or extent of Epstein's liability in those actions and have even less to do with any remote liability or damages in this action. By seeking their production, Edwards only seeks to embarrass, harass and annoy Epstein and, more significantly, compelling their production would be detrimental to Any Other Tort Claimants. This Court is wholly within its authority to preclude this type of irrelevant and harassing discovery. Any disclosure of these settlement agreements and amounts is tantamount to a departure from the essential requirements of the law and irreparable harm to both Epstein and those settling parties who have constitutional privacy rights.

**B. All Settlement Agreements Must be Excluded from Evidence Pursuant to Sections 90.401 and 90.403, Florida Statutes**

In his December 5, 2017, Second Amended Exhibit List, Edwards listed at No. 119, "All Settlement Agreements between Epstein and victims of his sexual molestations." (D.E. 1109.) In response, Epstein raised the following objections: (3) relevance; (4) probative value substantially outweighed by danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence; (7) hearsay; (8) authenticity; (12) not provided to counsel; and (14) confidential. (D.E. 1120.) Epstein now moves in limine pursuant to section 90.104, Florida Statutes to prevent any disclosure or reference at the trial of this matter to the total number

of claims that were settled, the settlement agreements and the settlement amounts (either individually or in the aggregate) of Edwards' Three Tort Claimants and Any Other Tort Claimants.

**1. Relevance and Probative Value**

Any and all settlement agreements and individual and aggregate settlement amounts must be excluded because they are irrelevant to the case at hand pursuant to section 90.401, Florida Statutes. To the extent Edwards could argue remote relevance, any alleged "probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence." § 90.403, Fla. Stat., *Dailey v. Multicon Dev., Inc.*, 417 So. 2d 1106, 1107 (Fla. 4th DCA 1982). "'Unfair prejudice' has been described as 'an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.' This rule of exclusion 'is directed at evidence which inflames the jury or appeals improperly to the jury's emotions.'" *Wright v. State*, 19 So. 3d 277 (Fla. 2009); *Byrd v. BT Foods, Inc.*, 26 So. 3d 600 (Fla. 4th DCA 2009). *See also Canales v. Compania de Vapores Realma, S.A.*, 564 So. 2d 1212 (Fla. 3d DCA 1990).

This Court has made it clear that Edwards may try to prove the elements of malice by allowing Edwards to discuss generally the number of pending claims that existed in December 2009 and the financial exposure those claims represented. The settlement amounts of Edwards' Three Tort Claimants have zero relevance to Edwards' burden of proof, and evidence of Any Other Tort Claimants' settlements obviously even less. Rather, they are being sought to tarnish the jury's view of Epstein and inflame the jury against Epstein. In other words, Epstein is damned if the amounts are disclosed or not – they will either be so high as admission of great guilt, or too low as further alleged abuse of the civil tort claimants. This improper use of confidential settlement

agreements constitutes classic grounds for preclusion of production and admission into evidence. See § 90.403, Fla. Stat. (2017).

In *Fischman v. Klarquist, Sparkman, Campbell, Leigh & Winston*, Civ. No. 94-1057, 1995 WL 264213 (D. Or. May 1, 1995), the plaintiff sued her former employer alleging sexual harassment. As in this case, one party sought production of the plaintiff's settlement of another sexual abuse case which, like the agreement here, contained a confidentiality provision. The defendant sought to compel production of the prior settlement, but the court denied production holding, "these materials are of no evidentiary value in this case. The documents reflect only the settlement of certain allegations made heretofore." *Id.* at \*1.

Similarly, in *Butta-Brinkman v. FCA International, Ltd.*, 164 F.R.D. 475 (N.D. Ill. 1995) a plaintiff sued her employer charging sexual harassment. The plaintiff sought production of settlement agreements entered by the employer in other cases. The federal court denied the plaintiff's motion to compel noting the strong public policy "weigh[ing] in favor of keeping such documents protected." *Id.* at 476-77.

These holdings are consistent with a series of federal cases that likewise have held based on the strong public policy to protect confidential settlement agreements. See *Cook v. Yellow Freight Sys., Inc.*, 132 F.R.D. 548, 554-55 (E.D. Ca. 1990) (denying motion to compel production of documents containing information about confidential settlement discussions); *Bottaro v. Hatton Assocs.*, 96 F.R.D. 158, 160 (E.D. N.Y. 1982) (denying motion to compel production of settlement agreement); *Grove Fresh Distribs., Inc. v. John Labatt, Ltd.*, 888 F. Supp. 1427, 1441 (N.D. Ill. 1995) (denying production and holding "while there is simply no legitimate public interest to be served by disclosing settlement agreements, the parties to the agreement are likely to have a compelling interest in keeping the settlement amount confidential").

These federal decisions are persuasive because section 90.408, Florida Statutes, and its identical federal counterpart, Federal Rule of Evidence 408, recognize the same public policy which generally precludes the introduction and use of settlements at trial, as well as in discovery. Both the Florida and Federal Rules of Evidence recognize that evidence, even where relevant, should be excluded where the relevance is outweighed by its prejudicial value. § 90.403, Fla. Stat.; Fed. R. Evid. 403.

The federal decisions dealing directly with sexual abuse cases are consistent with Florida decisions barring the introduction of settlement agreements involving similar claims. *Charles B. Pitts Real Estate, Inc. v. Hater*, 602 So. 2d 961 (Fla. 2d DCA 1992) involved a claim by a real estate broker seeking to recover a commission on the sale of a commercial property. A prior lawsuit had been filed by the purchaser against the seller seeking specific performance. The prior lawsuit settled and the real estate broker sought to introduce the settlement agreement in its lawsuit. The appellate court acknowledged the general rule that settlement agreements are inadmissible and found that the exclusion of the settlement agreement was proper. *Id.* at 963. The court noted that there are many potential reasons to settle a lawsuit, even if a party could ultimately prevail, and stated that, even if relevant, any probative value of the settlement would be outweighed by the prejudice and confusion its admission would cause. *Id.*; see § 90.403, Fla. Stat.

Likewise, in *Jacobs v. Atlantic Coast Refining, Inc.*, 165 So. 3d 714 (Fla. 4th DCA 2015), the court excluded a confidential settlement agreement and held that the evidence was not relevant because it was “incapable of proving or disproving any material fact.” *Id.* at 717. Additionally, the court found that, even if relevant, any probative value “was substantially outweighed by the danger of unfair prejudice to defendant.” *Id.*

As seen from both Edwards' Seventh Amended and Supplemental Witness List (D.E. 1042) and his Second Amended Exhibit List (D.E. 1109), it is apparent that he intends to use as much information from other cases as possible solely to impermissibly "inflame[] the jury or appeal[] improperly to the jury's emotions," or "solely to prove bad character." *Wright v. State*, 19 So. 3d 277 (Fla. 2009); *Byrd v. BT Foods, Inc.*, 26 So. 3d 600 (Fla. 4th DCA 2009). "[I]f the introduction of the evidence tends in actual operation to produce a confusion in the minds of the jurors in excess of the legitimate probative effect of such evidence if it tends to obscure rather than illuminate the true issue before the jury then such evidence should be excluded." *City of Miami v. Calandro*, 376 So. 2d 271, 272 (Fla. 3d DCA 1979) (citing *Perper v. Edell*, 44 So. 2d 78 (Fla. 1949)). See also *Agrofollajes, S.A. v. E.I. Du Pont De Nemours & Co. Inc.*, 48 So. 3d 976 (Fla. 3d DCA 2010) (probative value outweighed by prejudicial effect when evidence improperly becomes focus of trial); *Maldonado v. Allstate Ins. Co.*, 789 So. 2d 464 (Fla. 2d DCA 2001) (probative value of bicyclist's status as an illegal alien was outweighed by unfair prejudice, confusion of the issues, and misleading of the jury, as the evidence and instruction concerning status as an illegal alien improperly changed the focus of the jury's attention).

Clearly, settlements between Epstein and any tort claimants have zero relevance, and only prejudicial effect, in this malicious prosecution action brought by Edwards. Edwards was not sexually assaulted and even if he was, these confidential settlement agreements and amounts are irrelevant to his burden of proving that Epstein had no probable cause to institute the original civil proceeding.

### **CONCLUSION**

In reliance on the Florida Evidence Code and applicable law cited herein, Plaintiff/Counter-Defendant Jeffrey Epstein respectfully requests that this Court enter an Order *in Limine* precluding

Defendant/Counter-Plaintiff Bradley J. Edwards, his counsel, and his witnesses from making any argument, statement, evidence, or comment, regarding, as well as precluding from use at trial, the settlement agreements and settlement amounts, and holding all of the same inadmissible, and that the Court deny Edwards' *ore tenus* Motion to Compel the production of the confidential settlement agreements and any further breakdown of the settlement amounts.

**CERTIFICATE OF SERVICE**

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on January 10, 2018, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

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*Trial Counsel for Plaintiff/Counter-Defendant  
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# **EXHIBIT A**

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

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

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

Defendants/Counter-Plaintiff.

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**ORDER COMPELLING EPSTEIN TO PRODUCE SETTLEMENT AMOUNTS**

THIS CAUSE came before the Court upon Counter-Plaintiff's *ore tenus* motion on December 7, 2017. The Court, having heard argument of counsel does hereby,

ORDER AND ADJUDGE that:

1. Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein") shall produce to Defendant/Counter-Plaintiff Bradley J. Edwards ("Edwards") the following:
  - a. The number of claims settled by Jeffrey Epstein regarding individuals who alleged to be victims of sexual misconduct by Epstein, from December 6, 2007 to December 6, 2009;
  - b. The gross settlement amount paid by Epstein to individuals who alleged to be victims of sexual misconduct by Epstein, from December 6, 2007 to December 6, 2009;
  - c. The number of claims settled by Jeffrey Epstein regarding individuals who alleged to be victims of sexual misconduct by Epstein, from December 7, 2009 through the present; and

*The court has reviewed the hearing transcript and the competing Orders and finds that this Order captures more accurately the intent of the court as it relates to the court's oral rulings at the subject hearing. @*

d. The gross settlement amount paid by Epstein to individuals who alleged to be victims of sexual misconduct by Epstein, from December 7, 2009 through the present.

2. The number of claims and amounts shall be produced as “Confidential, for Attorneys’ and Clients’ Eyes Only,” and shall not, directly or indirectly, be disclosed to anyone else or used outside of this litigation.

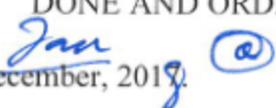
3. If a party intends to quote, disclose, rely on or use in this litigation information or documents that have been deemed “Confidential, for Attorneys’ and Clients’ Eyes Only,” whether in papers filed with the Court or verbally, in connection with a motion, hearing, deposition or trial, before any such information is quoted, disclosed, relied upon or used, the party must file a Motion to have the information or documents deemed to be no longer confidential, must file the information or documents under seal in accordance with Administrative Order 2.303-9/09 and have the proposed quote, disclosure, reliance or use of such information or documents heard and approved by the Court.

4. The Court defers rulings on the admissibility of the number of claims and the gross settlement amounts disclosed pursuant to this Order and the admissibility of the combined settlement amounts of Edwards’ three clients for whom Edwards was prosecuting civil cases against Epstein at the time Epstein filed the December 7, 2009 lawsuit against Edwards. No production of the underlying Settlement Agreements with each of Edwards’ three clients or with any other alleged victim is required by this Order. The Court defers ruling on whether there will be any further disclosure of any breakdown of the settlement amounts paid by Epstein.

5. Epstein shall file a new Motion addressing separately the admissibility of the aggregate settlement amount paid to Edwards’ three clients and the gross settlement amounts

disclosed pursuant to this Order. The Motion should also address Epstein's position as to the production of any Settlement Agreements underlying any settlements paid by Epstein and outline the confidentiality provisions governing those agreements. To the extent that disclosure of any such provisions is subject to confidentiality, disclosure shall be made under seal in accordance with Administrative Order 2.303-9/09.

6. The parties shall schedule a 30-minute hearing on Epstein's Motion. Edwards shall respond to the Motion in accordance with this Court's judicial instructions.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 5 day  
of December, 2018. 

  
\_\_\_\_\_  
THE HONORABLE DONALD W. HAFELE  
CIRCUIT COURT JUDGE

**SERVICE LIST**

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# **EXHIBIT B**

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

Case No. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

SCOTT ROTHSTEIN, individually,  
BRADLEY EDWARDS, individually,

Defendants/Counter-Plaintiff.

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VOLUME I

TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: Tuesday, December 5th, 2017  
TIME: 10:02 a.m. - 4:35 p.m.  
PLACE 205 N. Dixie Highway, Room 10C  
West Palm Beach, Florida  
BEFORE: Donald Hafele, Presiding Judge

This cause came on to be heard at the time and place  
aforesaid, when and where the following proceedings were  
reported by:

Sonja D. Hall  
Palm Beach Reporting Service, Inc.  
1665 Palm Beach Lakes Boulevard, Suite 1001  
West Palm Beach, FL 33401  
(561) 471-2995

1 Epstein and victims of sexual molestations.  
2 Again, I would have to see those when the  
3 time comes. I am most interested in the  
4 three individuals at issue.

5 MR. SCAROLA: Your Honor, there have  
6 been objections that have been raised to the  
7 production of those documents on the basis  
8 of a contractual confidentiality provision.

9 If the allegation remains that these  
10 cases -- the three at issue -- were somehow  
11 ginned up, then the value of the claims in  
12 general is at least discoverable with regard  
13 to making a determination as to whether the  
14 claims were ginned up.

15 And again, the degree of financial  
16 exposure that Mr. Epstein was facing is  
17 reflected by the settlements of all of the  
18 claims that he ultimately settled after the  
19 filing of this maliciously -- allegedly  
20 maliciously prosecuted lawsuit.

21 So we will be asking the Court to  
22 compel production of all of those settlement  
23 agreements.

24 THE COURT: That's something that  
25 probably will need to be dealt with probably

1 at a special-set hearing. So I would  
2 suggest that we set something in the near  
3 future for a half-hour hearing so that we  
4 can deal with those issues independently. I  
5 think it's worth some time to be taken.

6 Phone journal taken from Epstein's home  
7 and produced to the FBI by Rodriguez.  
8 That's the houseman. Same ruling as I made  
9 earlier with regard to that.

10 Photograph depicting Roberts, Maxwell  
11 and Prince Andrew.

12 MS. ROCKENBACH: No relevance to this  
13 action. It's prejudicial.

14 THE COURT: Same argument, Mr. Scarola?

15 MR. SCAROLA: Yes, sir. Same argument.

16 THE COURT: Sustained, unless further  
17 information develops to bring to the Court  
18 otherwise.

19 All flight logs. We talked about those  
20 before. Same ruling.

21 Evidence of contributions to the Palm  
22 Beach Police Department. Sustained. Same  
23 ruling.

24 MR. SCAROLA: Yes, sir. I did speak of  
25 that, the source of information regarding

1 Mr. Epstein does show up for trial, one of  
2 the very first questions I'm going to ask  
3 him is, Did you make this statement to the  
4 New York newspaper?

5 THE COURT: Like I said, we will take  
6 that up when time comes. We can further  
7 discuss the objections at the same time we  
8 are going to be discussing the -- all  
9 settlement agreements, 119. All right.

10 MS. ROCKENBACH: Thank you, Your Honor.

11 THE COURT: Thanks a lot to our court  
12 reporter for staying and working through  
13 this, as we have, today.

14 MR. SCAROLA: I assume that we are  
15 going to deal with Fifth Amendment issues as  
16 the first issue when we reconvene?

17 THE COURT: Well, I thought we talked  
18 about those already.

19 MR. SCAROLA: No, no. You remember  
20 that I identified every question and answer?

21 THE COURT: You are talking about the  
22 individual questions and answers. Yes, sir.  
23 Absolutely. And we will take those up  
24 first, and then we will go to the motions to  
25 compel and motion for protective order, if

# **EXHIBIT C**

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

Case No. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff,

vs.

SCOTT ROTHSTEIN, individually,  
BRADLEY EDWARDS, individually,

Defendants/Counter-Plaintiffs.

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TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: Thursday, December 7th, 2017  
TIME: 10:01 a.m. - 12:57 p.m.  
PLACE 205 N. Dixie Highway, Room 11B  
West Palm Beach, Florida  
BEFORE: Donald Hafele, Presiding Judge

This cause came on to be heard at the time and place  
aforesaid, when and where the following proceedings were  
reported by:

Sonja D. Hall  
Palm Beach Reporting Service, Inc.  
1665 Palm Beach Lakes Boulevard, Suite 1001  
West Palm Beach, FL 33401  
(561) 471-2995

1 that were brought by Edward's clients --  
2 E.W., L.M. and Jane Doe -- were relevant.

3 So I just wanted, for the record, to be  
4 definitive, in that, we are not trying the  
5 other claims that may have been represented  
6 by other attorneys -- like Mr. Scarola,  
7 Mr. Josefsberg -- because they would be not  
8 only irrelevant, they would be very  
9 prejudicial to my client receiving a fair  
10 trial.

11 THE COURT: Mr. Scarola.

12 MR. SCAROLA: It is not my intent to  
13 get into the merits of any of the other  
14 claims.

15 However, because motive is clearly  
16 relevant and material, and because malice is  
17 relevant and material, both with regard to  
18 the primary claim and with regard to the  
19 punitive damages claim, we respectfully  
20 suggest that it is error if we were not  
21 permitted to talk about what Mr. Epstein's  
22 motive was for taking the extraordinary step  
23 of filing a baseless claim against Bradley  
24 Edwards.

25 THE COURT: Well, until we get into,

1 obviously, what may or may not be asked of  
2 Mr. Edwards and Mr. Epstein principally on  
3 these cases or these issues, the global  
4 order of the Court would be that those  
5 individual claims would not be subject to  
6 discussion as to the merits, as Mr. Scarola  
7 has stipulated.

8 However, as it relates to both probable  
9 cause, i.e., motive and malice, the number  
10 of claims -- that is, speaking in terms of  
11 volume -- that Mr. Epstein was facing at the  
12 time that he brought the suit and continued  
13 the prosecution of that suit would be  
14 relevant. So that's the distinction being  
15 drawn by the Court, the detail, the merits,  
16 whatever may have been discovered as it  
17 relates to those cases would not be  
18 individually admissible in evidence, or any  
19 of those details from those cases.

20 However, as I said, the sheer number of  
21 cases may be relevant, i.e., to tend to  
22 prove or disprove a material fact as it  
23 relates to probable cause and malice. So  
24 that's the decision.

25 Next issue, please.

1           But I'm pretty sure that some cases  
2           were filed by Mr. Josefsberg.

3           THE COURT: Thank you.

4           Ms. Rockenbach, so as far as the  
5           collateral claims are concerned -- by no  
6           means am I minimizing those by using that  
7           terminology. It's just to distinguish the  
8           three cases that are at the heart of this  
9           case as it relates to the malicious  
10          prosecution claim as opposed to those other  
11          folks -- those other young women, in  
12          particular, who had either brought suit or  
13          made claims that were paid by Mr. Epstein.

14                 **The ruling of the Court is that I am**  
15                 **going to find at this point -- again,**  
16                 **subject to further inquiry at a later time**  
17                 **and whether or not that becomes an issue is**  
18                 **going to be subject to further scrutiny --**  
19                 **but I'm going to find that that information**  
20                 **would be discoverable, i.e., what was the**  
21                 **total amount of payments made by**  
22                 **Mr. Epstein?**

23                 **At this point I am withholding my**  
24                 **ruling -- or deferring ruling on**  
25                 **admissibility, just for the record --**

1 because you all are far better aware of the  
2 standard than I -- but the standard being  
3 because discovery is broader than what may  
4 be admissible at trial, the total amount  
5 paid, again, goes back to that place in time  
6 when Mr. Epstein would have brought this  
7 lawsuit at or near the time of  
8 Mr. Rothstein's arrest; at or near the time  
9 of federal and perhaps state agents raiding  
10 the offices of the firm; at or near the time  
11 of these cases reaching a crescendo as far  
12 as discovery was transpired; and then  
13 ultimately -- at least these three cases --  
14 settling less than a year thereafter, as I  
15 recall. You can correct me if I am wrong.

16 So the motive, malicious, probable  
17 cause issues that we have talked about at  
18 length in the past, again, because of the  
19 nature of discovery being broader than what  
20 may be admissible at trial, I am going to  
21 require that information be provided, so I'm  
22 deferring as to its admissibility.

23 Any confidentiality matters that may  
24 have attached to those settlement offers --  
25 strike that -- to those settlement payments

1 would also have to be discussed at a later  
2 time.

3 Section 90.408, for the record, states,  
4 though, "Evidence of an offer to compromise  
5 a claim which was disputed as to validity or  
6 amount, as well as any relevant conduct or  
7 statements made in negotiations concerning a  
8 compromise, is inadmissible to prove  
9 liability or absence of liability for the  
10 claim or its value. End quote.

11 So this is concerning, obviously, in  
12 light of the statute, as to not only the  
13 global settlement number that may be  
14 involved, but also as it relates to the  
15 three individuals.

16 Now, that's not squarely before me  
17 today. And I would rather be able to deal  
18 with that at some other time so that it's  
19 fully briefed and we know where we are going  
20 on this, because Mr. Scarola has his own  
21 rationale for insisting that the \$5.5  
22 million figure associated between the three  
23 individuals involve directly here would, in  
24 his view, be admissible.

25 Mr. Epstein largely hanging his hat on

1 section 90.408 takes a different view.

2 Similar to the hearsay rule, there are  
3 noted and notable exceptions to 90.408,  
4 meaning that, in the hearsay context, if the  
5 information is not being used to prove the  
6 truth of the matter asserted, there are  
7 other ways in order to get that information  
8 in.

9 Similarly, I am at least generically  
10 aware that there have been exceptions that  
11 have been stated under the law to 90.408.

12 So again, I would prefer to talk about  
13 them at a later time. So I think that,  
14 Ms. Rockenbach, what I would suggest you do  
15 is separate out, as part of the motion in  
16 limine -- my apologies -- if it is, I would  
17 ask simply to separate it out and set it for  
18 a half-hour special set hearing and we will  
19 take it up at another time.

20 I would rather get into, now, these  
21 issues of Fifth Amendment privilege that  
22 have been scheduled.

23 MS. ROCKENBACH: Yes, Your Honor.

24 Thank you.

25 MR. LINK: Your Honor, may I make one