

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

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

CASE NO.: 50 2009 CA 040800XXXXMBAG

vs.

JUDGE: HAFELE

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

Defendant/Counter-Plaintiff.

PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
MOTION TO STRIKE DEFENDANT/COUNTER-PLAINTIFF BRADLEY
EDWARDS'S NOTICE OF HEARING

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.090(d) of the *Florida Rules of Civil Procedure*, hereby files his Motion to Strike Defendant/Counter-Plaintiff Bradley Edwards's ("Edwards") Notice of Hearing for June 6, 2017, which was filed and served on June 2, 2017. In support thereof, Epstein states:

STATEMENT OF FACTS

On May 26, 2017, Edwards's counsel, Mr. Scarola, sent an electronic correspondence to undersigned counsel for Epstein, inquiring if she were available for a hearing June 6, 7, or 8 on Edwards's Motion to Set a Trial Date. Undersigned counsel responded that she was starting trial on June 6, and offered June 21, 2017, or any date during the last week of June, as alternative dates for the hearing. Counsel for Edwards responded that "Mr. Scarola is not available June 9 through June 27" and the Judge's

calendar was suspended June 28 and 29. Undersigned stated that she needed to be present at the hearing, as the hearing is to schedule a trial date, and offered in turn that perhaps one of Edwards's co-counsels or another attorney in Mr. Scarola's office could stand in during a hearing in June in Mr. Scarola's absence. No response to this offer was received. True and correct copies of these communications are attached hereto as composite "Exhibit A."

Next, on May 31, 2017, after work hours, Edwards's counsel sent another email regarding June 6, 7, and 8 as proposed hearing dates for his Motion to Set a Trial Date, stating therein that if undersigned failed to respond, then the hearing would be set for June 7 or 8. Undersigned again responded, within minutes, and reiterated that she was unavailable on those dates due to starting trial on June 6. On June 1, 2017, communications continued, and notwithstanding undersigned's explanation that she was starting a criminal jury trial on June 6, a Notice of Hearing for Tuesday, June 6, 2017 was served upon counsel on the afternoon of June 2, 2017. True and correct copies of these communications are attached hereto as composite "Exhibit B," and a true and correct copy of the Notice of Hearing is attached hereto as "Exhibit C."

MEMORANDUM OF LAW

Rule 1.090(d) of the *Florida Rules of Civil Procedure* provides that "[a] copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing." FLA. R.CIV. P. 1.090 (2017). *See also Devoe & Raynolds Co., Inc. v. KDS Paint Co.*, 382 So.2d 126, 127 (Fla. 4th DCA 1980) (holding that "[a]bsent extraordinary circumstances, proper notice should include written notice served a reasonable time

before the time specified for the hearing.”). While there are no hard rules regarding how much time constitutes “reasonable time” for service of notice before hearing, two (2) business days has consistently been held to be unreasonable. *Harreld v. Harreld*, 682 So. 2d 635 (Fla. 2d DCA 1996); *Finn v. Elliott*, 961 So. 2d 384 (Fla. 2d DCA 2007).

Likewise, the local rules applicable hereto require at least five (5) business days’ notice of a hearing. As such, pursuant to Local Rule Number 4 of the Fifteenth Judicial Circuit, and the Palm Beach County Bar Association’s Standards for Professional Courtesy and Civility, this unilaterally set hearing, with two (2) business days’ notice, is improper and must be stricken and the hearing reset to a time when counsel can be present. Local Rule 4 of the Fifteenth Judicial Circuit governs Uniform Motion Calendar and provides, in relevant part, that hearings shall be set and noticed pursuant to the “Standards of Professional Courtesy and Civility which have been endorsed by the judges of the Fifteenth Judicial Circuit.” *See Local Rule No. 4, In Re: Uniform Motion Calendar*, attached hereto as “Exhibit D.” The Standards for Professional Courtesy and Civility provide the following with respect to scheduling hearings: “As a general rule, **actual notice should be given** that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions and **five (5) business days for hearings.**” *See Palm Beach County Bar Association’s Standards for Professional Courtesy and Civility* (emphasis added).

In the instant case, Edwards fails to comport with the basic requisites for setting this hearing by not only giving two (2) business days’ notice, but also setting it on a date when he was well-aware that undersigned would be in trial in another jurisdiction and unable to attend. As such it must be reset to a time during which counsel can be present.

It is likewise noteworthy to illustrate that this Court is currently scheduling Jury Trials for January, 2018 - March, 2018. As such, a two-week delay to set a trial date does not prejudice Edwards. Consequently, Edwards's Notice of Hearing should be stricken and this hearing reset, upon proper notice, on a date on which counsel can be present.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this June 2, 2017.

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