

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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IN RE: CASE NO.: 09-34791-RBR
ROTHSTEIN ROSENFELDT ADLER, P.A., CHAPTER 11

Debtor.

BRADLEY EDWARDS' SUMMARY OF DAMAGES

Bradley J. Edwards, by and through undersigned counsel and pursuant to the Court's Order to Show Cause Why Fowler White and Jeffrey Epstein Should Not Be Held in Contempt and Scheduling Evidentiary Show Cause Hearing, hereby files this Summary of Damages, and states as follows:

INTRODUCTION

On April 19, 2018, the Court entered its Order to Show Cause Why Fowler White and Jeffrey Epstein Should Not Be Held in Contempt and Scheduling Evidentiary Show Cause Hearing (the "Show Cause Order"). In the Show Cause Order, the Court scheduled an evidentiary hearing for August 23 and 24, 2018, in which Jeffrey Epstein and his prior counsel, Fowler White, are required to show cause as to why they should be not be held in contempt of Court.

The evidentiary hearing concerns Fowler White and Epstein's apparent violation of this Court's order dated November 30, 2010 [DE 1194], which governed the process by which approximately 27,000 documents, privileged and not privileged, potentially responsive to a subpoena issued in the Palm Beach State Court case of *Jeffrey Epstein v. Scott Rothstein, Bradley J. Edwards, and L.M.*, Fifteenth Judicial Circuit, in and for Palm Beach County, Florida Case No. 50-2009 CA 040800XXXX MB AG (hereinafter "the Epstein lawsuit") to the RRA trustee, were

to be printed and bates stamped by Epstein's then-counsel, Fowler White. Specifically, the Court ordered in pertinent part as follows:

[T]he law firm of Fowler White Burnett, P.A., 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.**

(Emphasis added). Epstein's counsel, Fowler White, apparently retained a copy of the documents or images in violation of the Court's order by keeping a bates numbered CD in its files, which was later turned over the Epstein's trial counsel in the Epstein lawsuit, Link & Rockenbach, P.A. At least some of those improperly retained documents were then turned over to Epstein.

Fowler White and Epstein's apparent violation of the Court's order was uncovered on the eve of trial of the Epstein lawsuit, which concerns a malicious prosecution claim filed by Edwards against Epstein, and which was previously set for trial on March 13, 2018.¹ Specifically, on March 2, 2018, Epstein, through his trial counsel Link & Rockenbach, began filing documents into the state court record utilizing many of the improperly retained documents originating from the Fowler White CD at issue. As a result, extensive correspondence was exchanged between counsel and numerous pleadings were filed on these late-disclosed, privileged, and improperly retained communications, including but not limited to Edwards' Motion to Strike Epstein's Untimely Supplemental Exhibits and to Strike all Exhibits and Any Reference to Documents Contained Privileged Materials Listed on Edwards' Privilege Log, as well as the Supplement thereto filed on March 7, 2018, which identified this Court's November 30, 2010 Order prohibiting the retention

¹ The trial was stayed and is now likely to go forward over the summer of 2018.

of these materials. Edwards' counsel has expended significant time in addressing Epstein's possession of the improperly retained documents in the Epstein lawsuit, at both the trial and appellate levels of that state court proceeding. But for Fowler White improperly retaining these documents in violation of this Court's order, Edwards would not have incurred the significant time and expense in addressing this improper retention.

Edwards hereby submits the following summary of his damages and requests that the Court fashion the appropriate relief to remedy all harm caused by or derived from the violations of this Court's November 30, 2010 order:

1. An award of reasonable attorney's fees and costs for time expended in connection with Edwards' Joinder in the Motion for Order to Show Cause and all subsequent actions within this proceeding, including but not limited to the Show Cause Hearing currently set for August 23 and 24, 2018. Given that this proceeding remains ongoing, the amount of this damage category is yet to be determined but is conservatively estimated to exceed \$5,000 to date.
2. An award of reasonable attorney's fees and costs for time expended at both the trial and appellate court levels, in the Epstein lawsuit in Palm Beach State Court, in connection with Epstein's use of the improperly retained documents in that action. Epstein's attempt to utilize the improperly retained documents remains ongoing in the state court proceeding, and therefore the total amount of this damage category is yet to be determined but is conservatively estimated to exceed \$15,000 to date.
3. Daily sanction against Fowler White in the amount of \$1,000 per day for each day that the violation continues in order to coerce and ensure compliance with this Court's Order until such time that Fowler White proves to the Court that it is in full compliance.

This sanction should be assessed from the day when it is proven as the first day of the violation.

4. Daily sanction against Jeffrey Epstein in the amount of \$1,000 per day for each day that the violation continues in order to coerce and ensure compliance with this Court's Order until such time that Jeffrey Epstein proves to the Court that he is in full compliance. This sanction should be assessed from the day when it is proven as the first day of the violation.

I HEREBY CERTIFY that, pursuant to L.R. 9011-4(B) the undersigned counsel is qualified to practice before this Court.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on electronically to the examinee, the debtor, the attorney for the debtor, the trustee, all CM/ECF subscribers, and by email or U.S. Mail on those parties listed on the attached service list this 14th day of May, 2018.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A).

/s/ David P. Vitale Jr.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 14, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certified that the foregoing document is being served this day on all counsel of record or pro se parties identified on the on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ David P. Vitale Jr. _____

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