

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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**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S  
RESPONSE IN OPPOSITION TO DEFENDANT/COUNTER-PLAINTIFF  
BRADLEY EDWARDS' MOTION FOR LEAVE TO PROPOUND LIMITED  
REQUESTS FOR ADMISSION**

Plaintiff/Counter-Defendant, Jeffrey Epstein ("Epstein"), responds in opposition to the Motion for Leave to Propound Limited Requests for Admission dated December 1, 2017 [D.E. 1098] filed by Defendant/Counter-Plaintiff, Bradley Edwards ("Edwards").

**BACKGROUND**

Discovery is over. By Court Order dated July 20, 2017, this Court special set the trial of this matter for December 5, 2017. [D.E. 938.] In doing so, the Court ordered that the deadline to *complete* discovery was set for 10 days before trial. *Id.* at H. That meant, discovery had to be completed by November 27, 2017, making written requests due by October 27, 2017.

Although the Court granted Epstein's request for a continuance of the trial and reset the special set trial to March 13, 2018, it did not specifically address the Motion's second part which sought an extension of the pretrial deadlines. [D.E. 1035; 1057.] Edwards opposed any pretrial deadline extension and affirmatively moved to reconfirm the original pretrial deadlines. [D.E.

1059.] In his Motion, Edwards argued that, “The order resetting the trial did not alter any pretrial deadlines including the discovery cutoff date” and Edwards objected “to any effort to expand existing deadlines.” *Id.* On November 27, 2017, the Court agreed with Edwards and granted Edwards’ Motion finding that, “to the extent that wholesale additional discovery will not be permitted but individual discovery requests may be allowed on a matter-by-matter basis only if the discovery requests are impacted by the Court’s ruling on motions currently pending to be heard ...” [D.E. 1086.][emphasis added].

Despite having asked this Court to enforce the discovery cutoff deadlines, on December 1, 2017, Edwards moved for leave to serve Requests for Admissions. Edwards argues that Epstein’s response to his Request for Judicial Notice of a New York sex offender registry triggered the need for the additional discovery in order for Epstein to authenticate the website printout and confirm its accuracy. [D.E. 1098.] Specifically, Edwards’ proposed Requests for Admission would ask Epstein to admit the following:

- a. Admit that the printout of your New York State Sex Offender registration page attached to Edwards’ Request for Judicial Notice Pursuant to Florida Statutes Section 90.202 and 90.203, dated November 8, 2017, is authentic.
- b. Admit that the information contained in the printout of your New York State Sex Offender registration page attached to Edwards’ Request for Judicial Notice Pursuant to Florida Statutes Section 90.202 and 90.203, dated November 8, 2017, is accurate.

## ARGUMENT

### *Inadmissible and Prejudicial*

First, Epstein objects to any reference to or admissibility of the New York State Sex Offender registration information at trial because it is irrelevant and prejudicial. §§ 90.401, 90.403, Fla. Stat. The non-admissibility issue is the subject of a separate Motion.<sup>1</sup>

### *Edwards' Motion Fails to Meet Court Requirements to Reopen Discovery and Seeks Preferential Treatment*

Second and procedurally, Edwards cannot have it both ways. As the Court made clear in its November 27, 2017, Order and at a subsequent hearing resulting in a significantly prejudicial and adverse ruling to Epstein, **discovery is closed**. Specifically, Epstein requested leave to disclose his expert witness, Culver (Skip) Smith, III, Esq., based on this Court's rulings at extensive pretrial hearings held November 29, December 5 and December 7, 2017. On January 17, 2018, at Edwards' urging to again enforce the original pretrial deadlines, this Court denied Epstein's Motion for Leave to Disclose Expert Witness and referred to the pretrial deadlines with no prejudice analysis. [D.E. 1119; 1146.] In urging the Court's denial, Edwards cited this Court's requirements regarding reopening discovery: "...but individual discovery requests may be allowed on a matter by matter basis only if the discovery requests are impacted by the Court's ruling on motions currently pending to be heard ..." [D.E. 1086.][emphasis added].

In fact, there can be no dispute that it has been Edwards who has repeatedly opposed any extension of pretrial deadlines. Edwards' counsel knew for years of the registration site and had previously indicated he wanted it for purposes of identifying Epstein's "assets...through those sex offender registration disclosures...." (12/5/17 Tr. 202:11-203:3).<sup>2</sup> Edwards' longstanding

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<sup>1</sup> Plaintiff/Counter-Defendant, Jeffrey Epstein's Motion in Limine as to Sex Offender Registry Information.

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

knowledge of the registration site (and potential hearsay obstacles) is not this Court's problem to remedy. Edwards had many years to seek these discovery requests/admissions and his current trial evidentiary conundrum was simply not caused by any ruling by this Court on motions pending for the November/December pretrial hearings.

There is simply no justification for Edwards' belated request. Edwards has provided no legitimate reason for this Court to extend an expired discovery deadline to permit Edwards to serve Requests for Admissions that Edwards easily could have propounded anytime during the preceding eight years. This is particularly true, where the Court just recently denied Epstein's well-founded request for relief from the discovery deadline based entirely on the eight-year duration of this matter. Epstein's well-founded hearsay objection to Edwards' Request for Judicial Notice does not warrant extension of the discovery cutoff. Epstein's objection certainly was not caused by any ruling of this Court, but rather by the obvious impropriety of seeking to introduce into evidence an irrelevant and unduly prejudicial New York State Sex Offender registration information at a malicious prosecution trial. Epstein's hearsay objection as to admissibility was readily foreseeable, and if granted, would not create unknown or unanticipated discovery issues about Epstein's assets or net worth, issues that already have been litigated extensively in this case.

If Epstein was not granted leave to disclose a vital trial expert witness with no prejudice cited by Edwards, surely the pretrial discovery cutoffs should apply equally to Edwards' written discovery Requests for Admissions.

Third, the proposed Requests for Admission ask Epstein to authenticate information and confirm its accuracy over which Epstein has no control (i.e., New York State records).<sup>3</sup>

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<sup>3</sup> If the Court grants Edwards' late Request for Admission and requires Epstein to substantively answer, Epstein would consistently assert his Fifth, Sixth and Fourteenth Amendment rights. *Fisher v. United States*, 425 U.S. 391, 410 (1976); *Hoffman v. United States*, 341 U.S. 479, 486 (1951).

Florida Statutes section 90.901 provides:

**Requirement of authentication or identification** – Authentication or identification of evidence is required as a condition precedent to its admissibility. The requirements of this section are satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

In order to authenticate the New York Sex Offender website information, Edwards is required to (1) call a witness with personal knowledge (§ 90.901, Fla. Stat.); (2) use public records to self-authenticate (§ 90.902(4), Fla. Stat.); or (3) assert official publications (§ 90.902(5), Fla. Stat.). Edwards' attempt to avoid the Florida Evidence Code by propounding the tardy discovery requests should be rejected.

### **CONCLUSION**

Epstein respectfully requests that Edwards' Motion be denied. Edwards asked for confirmation of the pretrial deadlines and must be held to that request. There was no court ruling "on motions currently pending to be heard... [on November 29, December 5 or December 7, 2017]" which caused the need for Edwards' untimely discovery requests.

**CERTIFICATE OF SERVICE**

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

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