

IN THE SEVENTEENTH JUDICIAL CIRCUIT IN  
AND FOR BROWARD COUNTY, FLORIDA  
CIVIL DIVISION

CASE NO: CACE 15-000072

BRADLEY J. EDWARDS and  
PAUL G. CASSELL,

Plaintiff/  
Counterclaim Defendants,

vs.

ALAN M. DERSHOWITZ,

Defendant/Counterclaim Plaintiff.

\_\_\_\_\_ /

HEARING BEFORE THE HONORABLE THOMAS M. LYNCH, IV

Thursday, October 22, 2015

9:05 a.m. - 9:15 a.m.

201 Southeast 6th Street  
Courtroom 950  
Fort Lauderdale, Florida 33301

Theresa Tomaselli, RMR



APPEARANCES OF COUNSEL

On behalf of the Plaintiffs:

SEARCY, DENNEY, SCAROLA,  
BARNHART & SHIPLEY, P.A.  
BY: JOHN (JACK) SCAROLA, ESQUIRE  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, Florida 33409  
Tel: [REDACTED]  
Fax: [REDACTED]  
E-mail: [REDACTED]

On behalf of Jeffrey Epstein:

TONJA HADDAD, P.A.  
BY: TONJA HADDAD COLEMAN, ESQUIRE  
315 Southeast 7th Street  
Suite 301  
Fort Lauderdale, Florida 33301  
Tel: [REDACTED]  
Fax: [REDACTED]  
E-mail: [REDACTED]

Also Present:

THOMAS E. SCOTT, ESQUIRE

P R O C E E D I N G S

1  
2 Thereupon, the following proceedings  
3 were had:

4 MS. COLEMAN: Good morning, Your Honor. How  
5 are you?

6 THE COURT: Hi there. How are you?

7 MS. COLEMAN: Doing well. How are you?

8 THE COURT: All right. We have got a busy  
9 day on this case, huh?

10 MS. COLEMAN: Yes, Judge, and I'm a nonparty  
11 to this case. This is hopefully the only time  
12 you will be hearing from me today. Tonja Haddad  
13 Coleman on behalf of nonparty Jeffrey Epstein.

14 MR. SCAROLA: And Jack Scarola, Your Honor,  
15 on behalf of the Plaintiffs in this action.

16 THE COURT: Yes.

17 MR. SCAROLA: Good morning, sir.

18 THE COURT: Let me just sign this order and  
19 I'll be right with you.

20 Okay. Go right ahead.

21 MS. COLEMAN: Thank you, Judge. My client is  
22 a nonparty to this action, Jeffrey Epstein.

23 Jeffrey Epstein is a Defendant in the civil  
24 litigation case that is currently pending before  
25 the Fourth DCA in which Mr. Edwards is a

1 Plaintiff. The Court ordered us to mediation.

2 THE COURT: Oh, that one. Okay. Okay.

3 MS. COLEMAN: The Court ordered --

4 THE COURT: There's a lot of action in this  
5 case. That's the one that's up in the Fourth,  
6 okay.

7 MS. COLEMAN: Yes, sir. The Court ordered us  
8 to attend a mediation regarding the attorney's  
9 fees while the appeal was pending, simply because  
10 we, being Mr. Epstein, had successfully moved for  
11 entitlement to attorney's fees, and the Judge  
12 indicated that he wanted us to attend a mediation  
13 while the case was up on appeal.

14 Both parties agreed it wasn't really  
15 necessary, but the Court wanted us to do it.  
16 And, thereafter, Mr. --

17 THE COURT: While it was up on appeal?

18 MS. COLEMAN: I'm sorry?

19 THE COURT: While it was up on appeal --

20 MS. COLEMAN: Yes.

21 THE COURT: -- the Trial Court ordered  
22 mediation?

23 MS. COLEMAN: Yes, sir.

24 MR. SCAROLA: There was pending before the  
25 Trial Court, Your Honor, an issue with regard to

1 attorney's fees --

2 THE COURT: Oh, okay.

3 MR. SCAROLA: -- pursuant to a proposal for  
4 settlement, so the Court had jurisdiction --

5 THE COURT: Gotcha.

6 MR. SCAROLA: -- over that issue, although  
7 what was ordered was --

8 THE COURT: That's really none of my business  
9 anyway. I was just interested.

10 MR. SCAROLA: Well, that just helps Your  
11 Honor to understand that this wasn't an entirely  
12 over vires act.

13 MS. COLEMAN: The issue of attorney's fees  
14 was the original subject of the mediation,  
15 attorney's fees to which the Court had determined  
16 my client, Mr. Epstein, was entitled.

17 What the Court -- Mr. Edwards petitioned the  
18 Court to compel Mr. Epstein to personally appear  
19 at the mediation. The Court granted that motion,  
20 and a copy of the order is attached to our  
21 complaint -- our motion here to quash.

22 In compliance with that order, Mr. Epstein  
23 personally attended the mediation in West Palm  
24 Beach. While present at the mediation in the  
25 mediation room with his attorneys, Mr. Epstein

1 was sitting, prepared to go forward with the  
2 mediation, and Mr. Edwards and his counsel and  
3 the process server entered the mediation room and  
4 attempted to serve Mr. Epstein with a subpoena  
5 duces tecum requiring Epstein to appear for the  
6 taking of his deposition in West Palm Beach,  
7 Florida.

8 The concern with this, first and foremost, of  
9 course, is that we are moving to quash because a  
10 party -- a person attending court ordered  
11 Alternative Dispute Resolution outside of their  
12 territorial jurisdiction of their residence is  
13 immune, not only while attending that, but for a  
14 reasonable time traveling to and traveling from  
15 such hearing.

16 There is a case in which this was extended to  
17 Alternative Dispute Resolution which is cited in  
18 our motion.

19 The second issue regarding this motion to  
20 quash, Judge, is that Mr. Epstein is, as  
21 Mr. Edwards is well-aware, a legal resident of  
22 the United States Virgin Islands.

23 All of the case law is delineated in our  
24 motion, but we would submit that we are well  
25 within the proper portion of the law from the

1 Florida Supreme Court, Stokes v. Bell,  
2 441 So. 2d 146, stating that this will proceed on  
3 the ground that the due administration of justice  
4 requires that a court shall not permit  
5 inference -- interference with the progress of a  
6 cause pending before it by the service of process  
7 in other suits.

8 And, again, Judge, it's very clear  
9 Mr. Epstein is not a party to this suit. And we  
10 submit that it's, you know, proper because in  
11 Stokes, the Florida Supreme Court upheld the  
12 lower court's decision to abate service for lack  
13 of personal jurisdiction when the party to whom  
14 service was processed was defending himself in an  
15 unrelated civil matter in the Florida courthouse.  
16 And that Defendant was a resident of the Bahamas.

17 And the Supreme Court held that nonresidents  
18 are exempt from service of civil process while  
19 they are attending or traveling to or from court  
20 proceedings outside the county of their residence  
21 as witnesses or suitors. And there's a Fourth  
22 DCA case, 1981, to which that court refers which  
23 is Cordoba versus Cordoba, 393 So. 2d 589.

24 And just so Your Honor is clear, in Lee  
25 versus Stevens of Florida, 578 So. 2d 867,

1 Florida Second DCA 1991, the Court extended the  
2 immunity to Alternate Dispute Resolution for the  
3 same chilling effect that it may have on parties  
4 attending Alternate Dispute Resolution.

5 THE COURT: Okay. Thank you.

6 MR. SCAROLA: Your Honor, there is no dispute  
7 with regard to what the law is. There is a  
8 dispute with regard to the application of that  
9 law to these facts, because the problem with the  
10 position taken by Mr. Epstein is that he has  
11 confused the concepts of domicile and residence.

12 Mr. Epstein is legally domiciled in the U.S.  
13 Virgin Islands on his private island. He has  
14 residences in New Mexico, Palm Beach, New York,  
15 and Paris, and has given sworn testimony, one of  
16 the few substantive questions that he has  
17 answered, on January 25, 2012, identifying one of  
18 his residences as 350 -- excuse me -- 358  
19 El Brillo Way in the town of Palm Beach.

20 Jeffrey Epstein was present in Palm Beach  
21 County, in the State of Florida, in a county and  
22 state in which he regularly resides, and so he  
23 has not been served outside of the area of his  
24 residence.

25 He has been served in a county and state

1 where he resides and he should be obliged, as a  
2 consequence, to respond to the subpoena that was  
3 lawfully issued upon him.

4 THE COURT: Anything else?

5 MS. COLEMAN: Yes, Judge. Section 48.194 of  
6 the Florida Statutes provides that service of  
7 process of nonresidents of Florida outside the  
8 state has to be done properly at the place of  
9 their regular residence.

10 Just because Mr. Epstein owns a home here  
11 does not make him a resident of the State of  
12 Florida.

13 THE COURT: But counsel indicates that  
14 there's a distinction between domicile and  
15 residence in that, at least it's his position  
16 that Epstein is domiciled -- might be domiciled  
17 in the Virgin Islands, but is a resident of Palm  
18 Beach County.

19 MS. COLEMAN: Well, Judge, he's not a  
20 resident. Just because he owns a residence there  
21 doesn't make him a resident of that state or  
22 city. As the Court is well-aware, there's a very  
23 specific process that must be determined to  
24 determine -- for the Court or anyone to determine  
25 whether someone resides in a particular location.

1 And under the statutes, Mr. Epstein does not live  
2 here. He was here pursuant to a court order to  
3 attend a mediation and was served.

4 Mr. Scarola has offered no case law that  
5 distinguishes between a domicile and a residence.  
6 The statute does not distinguish between a  
7 domicile and a residence. It specifically  
8 states, "nonresidents of Florida." We have  
9 submitted that Mr. Epstein is a legal resident of  
10 the United States Virgin Islands. Just because  
11 he owns a home here does not make him a resident.

12 I believe there's several statutes in the  
13 State of Florida which are applicable to  
14 determining whether or not it is someone's  
15 residence, much less primary place of residence,  
16 as opposed to their domicile.

17 THE COURT: Well, the case you cited in the  
18 Bahamian situation, where that individual, I  
19 believe, was a permanent resident of the Bahamas,  
20 and is it your position that your client,  
21 Mr. Epstein, is a permanent resident of the U.S.  
22 Virgin Islands?

23 MS. COLEMAN: Yes, Judge, I am. All of his  
24 legal documentation shows that as his legal  
25 residence. Every pleading, every response to a

1 complaint, any legal issue where it's ever been  
2 addressed, it has consistently and unequivocally  
3 been held that Mr. Epstein is a legal resident of  
4 the United States Virgin Islands.

5 And quoting something from 2012, with all due  
6 respect, when we are in 2015, offers no more  
7 proof of his residence than anything else.

8 MR. SCAROLA: Your Honor, the burden in  
9 quashing this subpoena is upon Mr. Epstein to  
10 prove that he is a nonresident of Palm Beach  
11 County, Florida. He has asserted that he resides  
12 in the U.S. Virgin Islands. It is apparent that  
13 his domicile is the U.S. Virgin Islands, but he  
14 has not offered any proof that he is a  
15 nonresident of Florida.

16 And it is on that basis that this motion to  
17 quash should be denied. They have failed to  
18 carry their burden of proof, particularly when he  
19 has sworn previously that one of his residences  
20 is Palm Beach, Florida.

21 THE COURT: I'm going to reserve ruling. I  
22 want to take a look at this. Let me just check  
23 one thing out here before you go.

24 MR. SCAROLA: May I provide the Court with  
25 the partial transcript of the deposition?

1 THE COURT: Sure.

2 MR. SCAROLA: Thank you. There you are, sir.

3 THE COURT: Thank you. How about you give me  
4 until either tomorrow or Monday; I'll try to get  
5 to it tomorrow depending on how things go.

6 MR. SCAROLA: There's no urgency, Your Honor.  
7 That's fine.

8 MS. COLEMAN: And, Your Honor, if the Court  
9 wishes, I can provide an affidavit that my client  
10 recently signed saying that he's a legal resident  
11 of the U.S. Virgin Islands, if the Court is so  
12 inclined to review it.

13 THE COURT: I don't know. Let me take a look  
14 and I'll let you know.

15 MR. SCAROLA: Thank you, sir.

16 MS. COLEMAN: Thank you.

17 THE COURT: Thanks.

18 (Thereupon, at 9:15 a.m. the hearing was  
19 concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA     )

COUNTY OF BROWARD    )

I, THERESA TOMASELLI, Registered Merit Reporter certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

Dated this 21st day of November, 2015.

THERESA TOMASELLI, RPR, RMR