

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION
CASE NO. 502009CA040800XXXXMBAG
Judge David F. Crow

JEFFREY EPSTEIN,

Plaintiff,

v.

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

Defendants.

NOTICE OF HEARING- UMC

PLEASE TAKE NOTICE that the undersigned has set down for hearing before the Honorable David F. Crow, one of the Judges of the above-styled Court, in the Palm Beach County Courthouse, 205 North Dixie Highway, Courtroom 9C, West Palm Beach, Florida on **Wednesday, April 20, 2011** at 8:45 a.m., the following:

PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION FOR PROTECTIVE ORDER TO PRECLUDE OPPOSING COUNSEL AND DEFENDANT/COUNTER-PLAINTIFF FROM MAKING EXTRA-JUDICIAL STATEMENTS AND COMMENTARY TO THE MEDIA AND PRESS, WITH INCORPORATED LEGAL AUTHORITIES

I hereby certify that I have made a good faith attempt to resolve this matter prior to my noticing this motion for hearing.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

In accordance with the Americans With Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact Barry Blacey, ADA Coordinator for the Courts of Palm Beach County, 205 N. Dixie Highway, West Palm Beach, Florida 33401, Telephone Number [REDACTED], no later than seven days prior to the proceeding.

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was sent via U.S. Mail this ^{4th} day of April, 2011 to: Marc S. Nurik, Esq., One East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301; Jack Scarola, Esquire, Searcy, Denney & Scarola, P.A., 2139 Palm Beach Lakes Boulevard, P.O. Drawer 3626, West Palm Beach, FL 33409, Jack A. Goldberger, Esquire, Atterbury Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401-5012 and Gary Farmer, Esquire, Farmer, Jaffe, Weissing, Edwards, Fistos, et al., 425 N. Andrews Avenue, #2, Fort Lauderdale, FL 33301.



Joseph L. Ackerman, Jr.
Fla. Bar No. 235954
Christopher E. Knight
Fla. Bar. No. 607363

FOWLER WHITE BURNETT, P.A.
901 Phillips Point West
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Telephone: [REDACTED]
Facsimile: [REDACTED]

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

JEFFREY EPSTEIN,
Plaintiff,

Complex Litigation, Fla. R. Civ. Pro. 1201

Case No. 50 2009 CA 040800XXXXMBAG

vs.

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

Defendants.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION
FOR PROTECTIVE ORDER TO PRECLUDE OPPOSING COUNSEL AND
DEFENDANT/COUNTER-PLAINTIFF FROM MAKING EXTRA-JUDICIAL
STATEMENTS AND COMMENTARY TO THE MEDIA AND PRESS,
WITH INCORPORATED LEGAL AUTHORITIES**

Plaintiff/Counter-Defendant, JEFFREY EPSTEIN ("EPSTEIN"), by and through his undersigned counsel and pursuant to Rule 1.280(c) of the Florida Rules of Civil Procedure, files this Motion for Protective Order to Preclude Opposing Counsel and Defendant/Counter-Plaintiff From Making Extra-Judicial Statements and Commentary to the Media and Press, and, as grounds therefor, states:

1. On March 11, 2011, the British publication "The Telegraph" published an article entitled "Convicted paedophile Jeffrey Epstein is facing a new criminal investigation and is involved in a civil suit with a lawyer." [Exhibit 1]. The source for much of that Article's information is Jack Scarola, Esq., counsel for the Defendant/Counter-Plaintiff, Bradley J. Edwards.

2. In fact, Mr. Scarola is quoted to have said the following:

- a. "We would be very keen to speak with Prince Andrew, given his relationship with Jeffrey Epstein."
- b. "We want to obtain additional details on the scope of Mr. Epstein's alleged sexual abuse of children — when, where, how frequently and the extent to which it involved the transport of children inside and outside the United States for sex."
- c. "We have reason to believe that Prince Andrew has been in the company of Mr. Epstein while Mr. Epstein has been in the company of under-aged children."

[Exhibit 1].

3. That same day, the Palm Beach Daily News published an article entitled "Jeffrey Epstein address book 'Holy Grail' of famous manes." [Exhibit 2]. This article refers to the fact that "[t]he British press has been having a field day digging up new details about Epstein's friendship with Prince Andrew." [Exhibit 2].

4. Two days later, another British publication, "The Observer," reported: "Edwards' lawyer, Jack Scarola, said last week that his team intended to try and get a statement from the prince [Andrew] about what he may or may not have seen while attending parties with Epstein." [Exhibit 3].

5. Any published comments by Mr. Scarola are clearly generating other articles about EPSTEIN. All statements and comments by Mr. Scarola to the press and media must therefore stop immediately.

6. This Court has the undeniable discretion to control and prohibit such extra-judicial commentary in order to insure that Plaintiff/Counter-Defendant EPSTEIN receives a fair trial. See State ex. rel. Miami Herald Publishing Co. v. McIntosh, 340 So. 2d 904, 910 (Fla. 1976). Courts in Florida may take steps to protect against pretrial publicity. See Sheppard v.

Maxwell, 384 U.S. 333, 348, 86 S. Ct. 1507, 16 L. Ed. 2d 600 (1966); Sentinel Communications Co. v. Watson, 615 So. 2d 768, 769 (Fla. 5th DCA 1993). The limitations imposed by the court on communications between lawyers and/or litigants and the media are permissible for good cause shown in order to assure a fair trial. See State ex. rel. Miami Herald Publishing Co. v. McIntosh, 340 So. 2d 904, 910 (Fla. 1976); see also Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d 32, 35 (Fla. 1988).

7. The Florida Supreme Court in McIntosh recognized that restrictions on extrajudicial comment are within the power of the trial judge when it said:

Limitation placed on lawyers, litigants and officials directly affected by court proceedings may be made at the court's discretion.... Muzzling lawyers who may wish to make public statements ... has long been recognized as within the court's inherent power to control professional conduct.

State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So. 2d at 910. Thereafter, the Supreme Court in McCrary stated: "Prohibition on comment is an acceptable alternative to prior restraint." Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d at 35-36 (order prohibiting public comment on evidence and charges against two defendants by members of state attorney's office and sheriff's was proper preventive measure where prejudicial publicity threatened to impair the right to a fair trial).

8. Any communications by Mr. Jack Scarola and Mr. Bradley J. Edwards, as attorneys and officers of the court, with the media and press are also limited by the requirements of Rule 4-3.6 of the Rules Regulating The Florida Bar. Rule 4-3.6, entitled "Trial Publicity," states:

(a) Prejudicial Extrajudicial Statements Prohibited.
A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be

disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation of an imminent and substantial detrimental effect on that proceeding.

(b) Statements of Third Parties. A lawyer shall not counsel or assist another person to make such a statement. Counsel shall exercise reasonable care to prevent investigators, employees, or other persons assisting in or associated with a case from making extrajudicial statements that are prohibited under this rule."

9. Rule 4-3.6 incorporates the "substantial likelihood of material prejudice" standard that the United States Supreme Court found to be a "constitutionally permissible balance between the First Amendment rights of attorneys in pending cases and the state's interest in fair trials." Gentile v. State Bar of Nevada, 501 U.S. 1030, 1075, 111 S. Ct. 2720, 2745, 115 L. Ed. 2d 888 (1991).

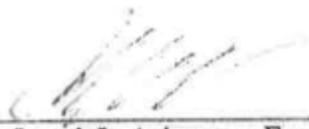
10. In a letter of March 18, 2011, in an effort to conserve this Court's time and resources, undersigned counsel requested Mr. Scarola to enter into a written agreement guaranteeing that Mr. Scarola, Mr. Edwards, and their respective agents and employees will not engage in any extra-judicial commentary concerning MR. EPSTEIN's alleged sexual abuse of or being with minor females.

11. The undersigned's efforts have not, unfortunately, been successful. An e-mail response to the above March 18, 2011 letter was received on March 21, 2011 rejecting the request.

WHEREFORE, Plaintiff/Counter-Defendant, JEFFREY EPSTEIN, respectfully requests this Court, pursuant to the foregoing authorities and consistent with 4.3-6 of the Rules Regulating the Florida Bar, to issue a Protective Order barring Mr. Jack Scarola,

Defendant/Counter-Plaintiff Mr. Bradley J. Edwards, and their respective agents and employees, from participating, encouraging, assisting, or abetting in the dissemination of any out-of-court publicity or extra-judicial statements and commentary to the media and press concerning MR. EPSTEIN's alleged sexual abuse of or being with minor females. Additionally, the requested Protective Order should direct all parties and their counsel, and their respective agents and employees, not to participate, encourage, assist, or abet in the dissemination of any out-of-court publicity, statement and commentary in this matter which is injurious to Mr. Bradley Edwards' reputation.

Respectfully submitted,

By: 

Joseph L. Ackerman, Esq.
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Attorneys for Jeffrey Epstein, Plaintiff

and

Christopher E. Knight
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Attorneys for Jeffrey Epstein, Plaintiff

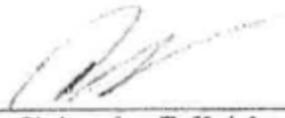
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail and U.S. Mail this 22nd day of March, 2011 to:

Jack Scarola, Esq.
Searcy Denney Scarola Barnhart & Shipley, P.A.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Jack A. Goldberger, Esq.
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Marc S. Nurik, Esq.
Law Offices of Marc S. Nurik
One E. Broward Blvd., Suite 700
Ft. Lauderdale, FL 33301

By: 

Christopher E. Knight, Esq.
Fla. Bar No. 607363

Natalie A. Trompet

From: Lisa B. Toney
Sent: Friday, April 01, 2011 10:27 AM
To: [REDACTED] L. Ackerman, Jr.
Cc: Michelle S. Ganetis; CHRISTOPHER E. KNIGHT; Lisa B. Toney; Lilly Ann Sanchez; Jacqueline M. Borrero; Michelle S. Ganetis; [REDACTED] Aprill; Vicki Passy
Subject: Epstein v. Rothstein - Signing and filing of NOH
Attachments: Epstein M/P/O

Good morning Joe and Natalie,

Please see in directory 80743, our Notice of Hearing on Epstein's M/P/O from Making Extra-Judicial Statements, which I would ask that Joe please sign and Natalie please file with the Clerk and mail to counsel. I have attached to this e-mail our signed M/P/O from Making Extra-Judicial Statements, etc. so it may be attached to the Notice of Hearing.

I will place on all calendars.

Thank you.

Fowler White Burnett 
ATTORNEYS AT LAW

► **Lisa B. Toney**
LEGAL ASSISTANT TO
CHRISTOPHER E. KNIGHT

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