

IN THE CIRCUIT COURT OF THE 17th  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CIVIL DIVISION

BRADLEY J. EDWARDS, and  
PAUL G. CASSELL,

CASE NO. CACE 15-000072

Plaintiffs,

v.

ALAN DERSHOWITZ,

Defendant.

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**EMERGENCY MOTION TO SEAL**

Non-Party [REDACTED] by and through undersigned counsel, hereby moves for an emergency order sealing "Exhibit B, Affidavit of Alan M. Dershowitz Regarding Meetings with David Boies" to Defendant Alan M. Dershowitz's Motion in Limine to Overrule Objections As to Application of Settlement Rules, Filing # 35429605 E-Filed 12/11/2015 at 10:08:04 a.m.

**ARGUMENT**

Defendant Dershowitz, knowing that non-party [REDACTED]'s lawyers had lodged objections on the record to Defendant Dershowitz's wrongful attempts during his deposition to reveal settlement discussions, completely disregarded those objections and has filed an affidavit in this Court's public file, outlining what he alleges were conversations between Defendant Dershowitz and David Boies. Non-party [REDACTED] seeks immediate protection from this Court to seal "Exhibit B, Affidavit of Alan M. Dershowitz Regarding Meetings with David Boies" until such time as the Court can hold a hearing to rule on the settlement privilege. It was Non-Party [REDACTED]'s lawyers' understanding that the communications with Mr. Dershowitz were settlement discussions for the purposes of resolving claims between these individuals. *See*

Exhibit 1, December 11, 2015, Declaration of David Boies; *see also Sea Cabin, Inc. v. Scott, Burk, Royce & Harris, P.A.*, 496 So. 2d 163, 164 (Fla. 4th DCA 1986) (“we believe it was error for the trial court to admit a letter from appellants’ counsel to another party suggesting that the other party was responsible for appellants’ damages and proposing a settlement of appellants’ claim against that party.”); *Stamm v. Stamm*, 489 So. 2d 851, 853 (Fla. 5th DCA 1986) (“We also take note that the trial court erred by improperly admitting into evidence a settlement proposal and testimony on negotiations...”)

Defendant Dershowitz intentionally submitted his affidavit in an effort to misrepresent what transpired and then fed that information to the press from the Court record. Indeed, the face of his motion demonstrates that he knows Non-Party [REDACTED] has standing objections to the revelation of settlement discussions and he intentionally and knowingly submitted an affidavit attached to his motion outlining what he claims to be his version of those settlement discussions.

The statements in Dershowitz’s affidavit will cause Non-Party [REDACTED] irreparable harm, and an emergency motion to seal should be granted to preserve the status quo until such time as the Court can fully review the merits of the settlement privilege claim.<sup>1</sup>

### CONCLUSION

WHEREFORE, Non-Party [REDACTED] respectfully requests that this Court grant her Emergency Motion and immediately seal “Exhibit B, Alan Dershowitz’ Affidavit” in support of Defendant Alan M. Dershowitz’s Motion in Limine to Overrule Objections As to Application of Settlement Rules, Filing # 35429605 E-Filed 12/11/2015 at 10:08:04 a.m.

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<sup>1</sup> Non-Party [REDACTED] will file a Motion to Strike Defendant Dershowitz’s Affidavit and a Motion and for Sanctions but in the interim immediate protection is needed in the way of a seal order regarding Defendant Dershowitz’s Affidavit.

Dated: December 11, 2015

Respectfully submitted,

**BOIES, SCHILLER & FLEXNER LLP**  
401 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, Florida 33301  
Telephone: (954) 356-0011  
Facsimile: (954) 356-0022

By: /s/Sigrid S. McCawley  
Sigrid S. McCawley, Esq.  
Florida Bar No. 129305

*Attorney for Non-Party* 

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 11, 2015, a true and correct copy of the foregoing was served by Electronic Mail to the individuals identified below.

By: /s/Sigrid S. McCawley  
Sigrid S. McCawley

Thomas E. Scott  
[Thomas.scott@csklegal.com](mailto:Thomas.scott@csklegal.com)  
Steven R. Safra  
[Steven.safra@csklegal.com](mailto:Steven.safra@csklegal.com)  
COLE, SCOTT & KISSANE, P.A.  
9150 S. Dadeland Blvd., Suite 1400  
Miami, Florida 33156  
[Renee.nail@csklegal.com](mailto:Renee.nail@csklegal.com)  
[Shelly.zambo@csklegal.com](mailto:Shelly.zambo@csklegal.com)

Richard A. Simpson  
[rsimpson@wileyrein.com](mailto:rsimpson@wileyrein.com)  
Mary E. Borja  
[mborja@wileyrein.com](mailto:mborja@wileyrein.com)  
Ashley E. Eiler  
[aeiler@wileyrein.com](mailto:aeiler@wileyrein.com)  
WILEY REIN, LLP  
1776 K Street NW  
Washington, D.C. 20006

*Counsel for Defendant Alan Dershowitz*

Jack Scarola  
SEARCY DENNEY SCAROLA BARNHART  
& SHIPLEY, P.A.  
[JSX@searcylaw.com](mailto:JSX@searcylaw.com)  
2139 Palm Beach Lakes Blvd.  
West Palm Beach, FL 33409-6601  
  
*Attorney for Plaintiffs*

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ORDER ON EMERGENCY MOTION TO SEAL

THIS CAUSE COMES before the Court on upon Boies, Schiller & Flexner LLP's  
Emergency Motion to Seal. Having reviewed the record and being otherwise fully advised, the  
Court hereby Orders:

1. Boies, Schiller & Flexner LLP's Motion to Seal is GRANTED.
2. The Clerk of Court shall seal "Exhibit B, Affidavit of Alan M. Dershowitz

Regarding Meetings with David Boies" to Defendant Alan M. Dershowitz's Motion in Limine to  
Overrule Objections As to Application of Settlement Rules, Filing # 35429605 E-Filed 12/11/2015  
at 10:08:04 a.m.

DONE AND ORDERED in Broward County, Florida on this \_\_\_\_ day of December,  
2015.

\_\_\_\_\_  
Honorable Judge Thomas Lynch  
Circuit Court Judge

cc: Counsel of Record

# EXHIBIT 1

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**DECLARATION OF DAVID BOIES**

1. My name is David Boies. I make this Declaration on personal knowledge in response to the Affidavit of Alan M. Dershowitz executed on December 10, 2015 and filed in this action on December 11, 2015.

2. Although much of what Mr. Dershowitz asserts in his Affidavit is misleading, taken out of context, or is flatly untrue, until the Court has ruled on Mr. Dershowitz's contention that the discussions were not settlement communications, I will restrict my response to matters related to that issue.

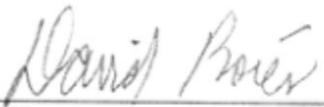
3. The entire purpose of my communications with Mr. Dershowitz, as I understood it, was to attempt to resolve the litigation between Mr. Dershowitz and Messrs. Edwards and Cassell.

4. I was not told, one way or the other, whether David Stone had actually been retained by Mr. Dershowitz as counsel. However, I was explicitly told that Mr. Dershowitz had asked Mr. Stone to participate on Mr. Dershowitz's behalf, and on a number of occasions Mr. Stone both received communications from me to pass on to Mr. Dershowitz, and passed on to me communications that Mr. Dershowitz had asked him to convey to me.

5. During our discussions, Mr. Dershowitz and I exchanged a number of emails including emails that included proposals and counter proposals for resolving the litigation between Mr. Dershowitz and Messrs. Edwards and Cassell. If the Court believes it is appropriate to do so, I am prepared to submit those emails to the Court for its review for the purpose of determining whether or not Mr. Dershowitz and I were or were not engaged in settlement communications.

I declare under penalty of perjury that the foregoing are true and correct to the best of my knowledge.

Executed this 11<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
DAVID BOIES