

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

CIVIL DIVISION
CASE NO. 502009CA040800XXXXMB-AG
Judge David F. Crow

JEFFREY EPSTEIN,

Plaintiff,

v.

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

Defendants.

SECOND AMENDED COMPLAINT

The Plaintiff, Jeffrey Epstein, ("Epstein"), by and through his undersigned attorneys, files this action against the Defendants, Scott Rothstein, ("Rothstein"), and Bradley J. Edwards ("Edwards") and (collectively referred to as "Defendants") alleges:

INTRODUCTION

This litigation has its genesis in the creation and operation of a criminal \$1.2 billion Ponzi scheme designed to inject funds into the law firm of Rothstein, Rosenfeldt and Adler, P.A ("RRA"), to personally enrich Rothstein and others at RRA, and to raise capital to fund the prosecution of civil claims against Epstein for alleged sexual assault and battery by defrauding investors into purchasing interests in assignments of alleged structured settlements, including those reached by RRA for clients with claims against Epstein, all to the detriment of the Plaintiff. Defendants Scott Rothstein, Bradley Edwards, and others conspired to induce investors to fund the prosecution of the Epstein Actions and in so doing made improper use of the judicial system and civil process by *inter alia* engaging in unreasonable and vexatious discovery in the

underlying actions against Epstein, making unfounded allegations in the underlying actions, using improper investigatory tools, and causing damages to Epstein.

GENERAL ALLEGATIONS

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00), exclusive of interest and costs.
2. Epstein is domiciled in Palm Beach County, Florida.
3. Rothstein was at all times relevant a resident of Broward County, Florida, and the chairman, managing partner and chief executive officer of a law firm called Rothstein, Rosenfeldt & Adler, P.A. ("RRA"), whose main office was in Broward County.
4. Edwards is a resident of Broward County, Florida, and is licensed to practice law in the state of Florida.
5. Beginning in April 2009, and at all times material to this action, Edwards was a partner in RRA.

The Ponzi Scheme

6. During 2009 Rothstein pursued a course of criminal conduct which included a scheme to defraud various investors into purchasing interests in assignments of alleged structured settlements purportedly reached on behalf of RRA for clients, including clients who had claims against the Plaintiff, in exchange for immediate payments to these clients of a discounted lump sum amount.
7. The purpose of the investments was to enrich Rothstein personally along with other members of RRA, to sustain the daily operations of RRA, and specifically, among other things, to raise capital to fund the prosecution of claims against the Plaintiff.

8. At or near the time that Rothstein and others were pursuing this Ponzi scheme, RRA was also bringing actions against Epstein in three civil cases, alleging sexual assault and battery. The cases were *Jane Doe v. Epstein*, Case No. 08-CIV-80893 ("Jane Doe") U.S. District Court, Southern District of Florida; *L.M. v. Epstein* ("LM"), Case No. 50-2008 CA 028051XXXXMB-AB; and *E.W. v. Epstein* ("EW" or "Jane Doe #2"), 50-2008 CA 028058XXXXMB-AB (collectively, the "Epstein Actions").

9. The lead attorney for RRA handling the Epstein Actions was Defendant Edwards.

10. Beginning in approximately the summer of 2009 through October 2009, in support of the massive Ponzi scheme, Rothstein made various representations to potential investors regarding the Epstein Actions, as well as other alleged claims against Epstein, including, but not limited to, the following:

- (1) That RRA had sophisticated eavesdropping equipment;
- (2) That RRA had a team of investigators consisting of former law enforcement officers, including a former sheriff, who would use this sophisticated eavesdropping equipment and sift through a potential defendant's garbage looking for damaging evidence that could be used to benefit RRA clients by enhancing the value of their clients' claims;
- (3) That Rothstein had meetings with the alleged victims of Epstein's assaults and their families regarding the structured settlements;
- (4) That these victims would take a lesser settlement if paid promptly and that investors who funded these early payments would be paid their investment plus a return when Epstein paid the greater amounts to settle the claims;
- (5) That in addition to the Epstein Actions, many anonymous women were lined up to settle with Epstein and many had claims for hundreds of millions of dollars;
- (6) That RRA attorneys would sue Epstein and disclose embarrassing information about Epstein, his family, friends and associates unless Epstein paid exorbitant settlements;
- (7) That if the potential investors did not make investments as promised on a strict timetable, RRA risked being fired and would lose the cases they had against Epstein to other lawyers; and

(8) That one of the RRA clients felt that Rothstein had lied to her repeatedly about funding, and that she was one step away from going to another lawyer and going to The Florida Bar.

11. RRA employed a team of skilled investigators on the Epstein Actions, including Michael Fisten ("Fisten") and former Broward County Sheriff and felon Ken Jenne ("Jenne").

12. Fisten and Jenne were the primary investigators assigned to Edwards, and reported to Edwards and Rothstein regarding their investigations of Epstein.

13. In October, 2009, Rothstein directed Edwards' investigative team to bring case files into a conference room at RRA to be examined by potential investors. Fisten and Jenne brought in the case files for the Epstein Actions, which numbered as many as nineteen boxes.

14. On or about October 13, 2009, Dean Kretschmar ("Kretschmar") was a representative of one of the investor groups who was permitted by Rothstein to look at the Epstein case file boxes that Fisten and Jenne had stacked around the conference room.

15. On or about October 13, 2009, Illinois attorney, Michael Legamaro, and his client, hedge fund operator Thane Ritchie, were also invited to examine Epstein case files and a flight log displayed by Rothstein that allegedly contained the names of numerous celebrities claimed to have flown on Epstein airplanes. Mr. Legamaro and his client reviewed both the log and the case files in the offices of RRA.

16. The Epstein case files were displayed to potential investors in RRA's office to show them that the cases against Epstein were real, were actually pending, that the alleged victims actually existed, all for the purpose of obtaining the investments.

17. Edwards brought the clients Jane Doe #1, EW and LM to RRA when he joined the firm in April 2009.

18. Rothstein approved Edwards incurring costs between \$110,000-\$200,000 on the Epstein Actions and supported his efforts to use all available resources of RRA, including its investigator team, in pursuing the Epstein Actions.

19. Although Edwards has given sworn deposition testimony that few attorneys at RRA were directly involved in the prosecution of the Epstein Actions, the privilege log prepared by Edwards and other documents clearly reflect that more than 18 RRA lawyers were involved in prosecuting the Epstein Actions. Additionally, four RRA investigators and several legal assistants and paralegals were involved in the Epstein matters.

20. On multiple occasions, many RRA attorneys conferred and were involved with the prosecution of the Epstein Actions, including as described below:

a) On May 3, 2009, Russell Adler ("Adler"), a name partner in RRA and who took part with Edwards in the prosecution of the Epstein Actions, sent an email to the staff and attorneys in RRA regarding depositions in the Epstein Actions;

b) On July 17, 2009, Jenne sent an email to Edwards about the Epstein Actions;

c) On July 18, 2009, Edwards sent an email to Adler, stating that "with the right moves we could force Epstein to settle for a lot of money";

d) On July 22 2009, Edwards sent an email to the Attorneys at RRA for a litigation meeting. On July 23, 2009, Priscila Nascimento, one of the secretaries to Rothstein, was advised of the meeting;

e) On July 29, 2009, Cara Holmes, an attorney at RRA working on the Epstein cases and a former agent for the Federal Bureau of Investigation, sent an email to Edwards stating that "our best bet is to go after those close to Epstein";

f) In July 2009, Edwards and co-counsel, Paul Cassell, exchanged emails about their lack of proof on a previously filed motion, which claimed that Epstein was moving his assets to avoid paying any judgments that may be obtained by RRA clients against Epstein;

g) On August 13, 2009 an email was sent from Rothstein to Mark Nurik, ("Nurik"), an attorney in RRA, regarding legal research on causes of action against Epstein. On that same day, Nurik sent an email to Rothstein regarding discussions about Epstein. Also on August 13, 2009, Adler sent an email to Rothstein regarding legal research on the causes of actions against Epstein. On August 17, 2009, Edwards sent an email to Nurik regarding a legal opinion on the Epstein matter.

h) On August 14, 2009, Edwards sent an email to RRA attorneys on litigation strategy regarding Epstein;

i) In the month of August, 2009, Edwards, Jenne and Fisten, exchanged emails on approximately four occasions discussing investigative techniques and other Epstein matters;

j) In the month of September 2009, emails were exchanged between Edwards and William Berger ("Berger"), a partner at RRA who also participated in the Epstein actions, regarding Litigation Strategy.

k) On September 11, 2009, Edwards sent an email to Elizabeth Villar, a legal assistant to Rothstein, about Epstein's alleged asset transfers; and

l) On September 4th and again on September 9th, Edwards and Fisten exchanged emails on Epstein Litigation Strategy.

21. By August 2009, Edwards was aware that RRA' s offices were audio monitored and recorded, including discussions on a speakerphone.

22. Beginning in October 2009, the level of communications by and between Edwards and others including Rothstein, described below, increased dramatically and coincided with Rothstein's efforts to get the investment for the Epstein actions concluded. Those communications include:

a) From October 5, 2009 to October 18, 2009, emails were sent between Edwards and Berger, Edwards and Fisten, Edwards and RRA attorneys regarding Epstein Litigation Strategy.

b) On October 19, 2009, Edwards sent an email to Nurik on JEE [Epstein] Evidence.

c) During this same time frame Rothstein was exchanging emails with the investors for the Epstein cases, telling them that if the investment was not made soon he would lose the client group to other lawyers.

d) During this same time frame, specifically on or around October 13, 2009, Kretschmar and Legamaro of the investor group were shown by Rothstein the actual case files of RRA in the Epstein Actions. The Epstein files were brought to the conference room by Fisten and Jenne.

e) During this same time frame, on or around October 21, 2011, A.J. Discala, a potential investor in the Epstein matters, sent an email to Rothstein about the private placement memoranda for the investment.

23. Then on October 22, 2009, the following events occurred:

a) Edwards sends an email to book a conference room for as many as attorneys as possible to attend a meeting on October 23, 2009 on the Epstein case. The email

requested that Ken Jenne, Adler, Berger, Barry Stone, Mike Wheeler, Cara Holmes, Rob Buschel, Mike Fisten, Steve Jaffe, and Mark Nurik attend.

b) Nurik emails Edwards about the meeting.

c) Edwards sends an email to Pat Diaz, another investigator on the Epstein case, regarding " new developments which require your expertise".

24. On October 23, 2009, the following events occur:

a) Jenne sends an email to Rothstein advising him of October 23, 2009 meeting;

b) Rothstein emails the investors that the Epstein client is going to another lawyer if the investment is not made right away;

c) Rothstein sends an email to Adler regarding causes of action against Epstein;

d) Adler sends an email to RRA attorneys on Epstein litigation strategy;

e) Edwards sends an email to RRA attorneys on Epstein litigation strategy;

f) Edwards sends an email to RRA attorneys regarding causes of action against Epstein;

g) Adler sends an email to Rothstein regarding causes of action against Epstein;

h) Rothstein sends to Legamaro, counsel for the investors, an email regarding on the causes of action against Epstein.

Clearly, the information Rothstein receives from Edwards and Adler regarding causes of action against Epstein, was sent by Rothstein to Legamaro, counsel for the Investors for the purpose of obtaining the Investment.

25. Given the interdependence of so many RRA lawyers, investigators, and other staff, and the wide communications that necessarily accompanied the involvement of so many people, Edwards knew, or should have known, that his Epstein case files were being shown and touted to investors and that he was assisting and aiding Rothstein to close the deal with the investors, particularly where the magnitude of the potential settlements in the Epstein Actions was a key selling point.

26. In October 2009, Rothstein convinced investors to put up money to realize a substantial return emanating from the fraudulent settlement of the Epstein cases.

27. In November, 2009, RRA collapsed and ultimately went into bankruptcy and Rothstein voluntarily relinquished his law license and was disbarred by the Florida Supreme Court.

28. Subsequently, Rothstein was arrested, arraigned in federal court, pled guilty and ultimately was sentenced to a 50-year prison sentence for fraud and racketeering, based on an alleged \$1.2 billion Ponzi scheme designed, among other things, to infuse funds into RRA, his own pockets, and those of his cohorts. The federal government called RRA a racketeering enterprise.

COUNT I: ABUSE OF PROCESS AGAINST EDWARDS

29. The Plaintiff realleges each and every allegation contained in paragraphs 1 through 28 as if they were fully set forth here.

30. In furtherance of the conspiracy to commit fraud against investors in the Epstein Action, the Defendant Edwards made illegal, improper and perverted use of the civil process by utilizing it to conduct unreasonable and unnecessary "discovery" or threatening to take discovery, and by making unfounded allegations, including but not limited to:

(1) Deposing three airplane pilots employed by Epstein, and seeking a deposition of a fourth pilot; collectively, the three were deposed for over twelve hours but were not asked a single question relating to any of the claims of Edwards' clients. Instead they were asked many inflammatory questions that had no legitimate legal purpose;

(2) Setting for deposition the following people:

- (a) Donald Trump (real estate investor and television personality);
- (b) Alan Dershowitz (renowned Harvard Law Professor and one of Epstein's criminal defense lawyers);
- (c) David Copperfield (illusionist);
- (d) Individuals who had knowledge of Epstein's charitable, political or other donations;
- (e) Mark Epstein, brother of the Plaintiff who was deposed; and
- (f) Leslie Wexner, client of the Plaintiff.

Edwards targeted the foregoing individuals because they were close to Epstein, not because they had any connection to or knowledge of the claims of Edwards' clients.

(3) Asking outrageous questions of the Plaintiff in deposition which had no legitimate bearing on the case or the issues to be tried, including questions regarding the size of his genitalia, whether witnesses would leave their children alone with the Plaintiff,

(4) In *Jane Doe 2*, Edwards represented in a pleading to the federal magistrate that records of communications by and between the United States Government and Epstein's criminal defense lawyers in the plea negotiations of the criminal matter were likely to lead to relevant information in the *Jane Doe* proceedings. Instead, the purpose of requesting those records was to obtain them for use in a separately filed Criminal Victims Rights Act ("CVRA") suit, *Jane Doe 1 and Jane Doe 2*, Case No. 08-80736-CIV, Marra/Johnson which was brought for several purposes, including invalidating the NPA Agreement. The claim to invalidate the NPA has no legitimate legal basis, given the fact that Epstein had pled guilty, served a prison sentence, became a registered sex offender, and settled many civil actions. The CVRA does not confer on victims the right to impair prosecutorial discretion of the Attorney General or the U.S. Attorney, nor does it create any right to invalidate a prosecutor's decision to settle a federal criminal investigation or decline prosecution;

(5) Conducting irrelevant and meritless discovery by issuing a subpoena to obtain records from an alleged sex therapist, Dr. Leonard Bard in Massachusetts, when issues relating to Epstein's mental and emotional states were not at issue and when Dr. Bard had never even treated the Plaintiff;

(6) Directing and filing of Notices for the following health care professionals to produce of medical records of Epstein, when Epstein's mental and emotional state was not an issue in the case:

- (a) Charles Galechi, M.D.;
- (b) Bruce Markowitz, M.D.; and
- (c) Steven Alexander, Ph.D.

(7) Directing and filing Notices for the following banks of Epstein, Colonial Bank and Palm Beach National Bank, to produce all financial records of Epstein, allegedly for the purpose of obtaining records of payments by Epstein to the alleged victims, knowing full well that the alleged victims testified to being paid in cash;

(8) Filing a Second Amended Complaint on behalf of *L.M.*, alleging that Epstein forced the minor into "oral sex" when Edwards knew, or should have known, of a prior F.B.I. statement where *L.M.* testified under oath that she never engaged in such acts;

(9) Attempting to conduct discovery of celebrities and other famous people that allegedly had flown on Epstein's airplanes where alleged assaults took place, even though no RRA clients claimed that they had flown on Epstein's airplanes; and

(10) Directing and filing of Notices to obtain all records of Epstein's prescriptions and any other health related documents at two local pharmacies, when no issues of Epstein's health had been raised in the Epstein Actions.

(11) On July 24, 2009, and two to three months before the investment into the Epstein Action, Edwards filed on behalf of client *L.M.* a two hundred and thirty four (234) page, one hundred fifty-six (156) count complaint in U.S. District Court. *L.M. v Jeffrey Epstein*, Case Number 09-CIV-81092. Each of the one hundred and fifty six counts (156) is a separate cause of action pursuant to 18 U.S.C. §2255. However, this complaint had no legal or legitimate purpose, because at the same time, *LM* had a pending state court action, seeking damages under theories other than the exclusive remedies in 18 U.S.C. §2255. Both actions cannot be maintained at the same time. Epstein was never served, and the complaint contained false allegations that *LM* was identified as a victim by the FBI and U.S. Attorney in a criminal investigation against Epstein and that Epstein forced *LM* to have oral sex with him. Epstein did not know of the action for several months following the filing and after the deadline for service of a federal complaint. Epstein believes this complaint may have been prepared to be shown to the investors in the Epstein Actions.

31. Edwards filed motions in Epstein Actions attempting to plead a cause of action for RICO when there was no good faith basis for doing so.

32. Edwards filed motions to freeze assets of Epstein without any evidence that Epstein was attempting to sequester or transfer assets and prior to Edwards obtaining a judgment against Epstein. Ultimately the federal district court found the " motion was entirely devoid of evidence of Defendant's [Epstein] alleged transfers".

33. The Defendants, Rothstein and Edwards, had ulterior motives for making these improper uses of civil process which included, among others:

- (1) obtaining monies to further a lavish lifestyle;
- (2) obtaining operating revenue so that RRA could continue to operate;
- (3) obtaining funds for the continued investigation and prosecution of the Epstein Actions; and
- (4) maintaining a Ponzi scheme.

34. As a result of the above, the Plaintiff has suffered damages, by incurring additional and unnecessary attorney's fees and costs to defend these abuses of process.

WHEREFORE, the Plaintiff, Jeffrey Epstein, demands a trial by jury, a judgment against Defendant Bradley J. Edwards for compensatory damages, interest, costs of this action, and any other relief deemed appropriate by this Court.

COUNT II: CONSPIRACY TO COMMIT ABUSE OF PROCESS AGAINST EDWARDS

35. Plaintiff realleges each and every allegation contained in paragraphs 1 through 28 as if they were fully set forth herein.

36. The Defendant Edwards entered into an express or implied agreement with Rothstein to engage in the tort of abuse of process. Edwards knew or should have known of

Rothstein's efforts to persuade investors to invest in the Epstein Actions and the concurrent need to use the court processes illegally to bring about that investment.

37. Edwards' actions, described above in paragraphs 30- 32, constitute the overt acts in pursuance of the conspiracy.

38. Edwards also directed his investigators to use harassing and inappropriate investigative methods against Epstein and his property that interfered with Epstein's privacy and caused Epstein to employ security guards and install an expensive security system to prevent intrusions and protect himself.

39. As a result of the conspiracy, the Plaintiff has been damaged by incurring additional and unnecessary attorney's fees and costs to defend and the use by Edwards of the court system to further this conspiracy and the cost of installing an enhanced security system and retention of security personnel for the safety of Epstein and to protect his property.

WHEREFORE the Plaintiff, Jeffrey Epstein, demands a trial by jury, a judgment against Defendant Bradley J. Edwards for compensatory damages, interest, costs of this action, and any other relief deemed appropriate by this Court.

COUNT III: CONSPIRACY TO COMMIT ABUSE OF PROCESS AGAINST ROTHSTEIN

40. Plaintiff realleges each and every allegation contained in paragraphs 1 through 28 as if they were fully set forth herein.

41. Defendant, Rothstein entered into an express or implied agreement with Edwards to engage in the tort of abuse of process. Rothstein knew or should have known of Edwards' efforts to make illegal, improper, and perverted use of the civil process in order to assist Rothstein in bringing about the investment.

42. Rothstein's actions, described in paragraphs 10 and 23, constitute his overt acts in pursuance of the conspiracy; and as part of a conspiracy is liable for the acts of Edwards described in paragraphs 30-32.

43. As a result of the conspiracy, Epstein has been damaged by incurring additional and unnecessary attorney's fees and costs and the cost of installing an enhanced security system and retention of security personnel for the safety of Epstein and to protect his property.

WHEREFORE, the Plaintiff, Jeffrey Epstein, demands a trial by jury, a judgment against the Defendant, Scott Rothstein, for compensatory damages, costs, interest and any and other relief deemed appropriate by this Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been duly furnished via Email, Facsimile, U.S. Mail, Hand Delivery, Federal Express this ____ day of August, 2011:

Jack Scarola, Esq.
Searcy Denney Scarola Barnhart & Shipley, P.A.

[REDACTED]

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.

[REDACTED]

Marc S. Nurik, Esq.
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Martin Weinberg, Esquire
Martin G. Weinberg, P.A.

[REDACTED]

Respectfully submitted,

Joseph L. Ackerman, Jr.
Fla. Bar No. [REDACTED]

FOWLER WHITE BURNETT, P.A.

[REDACTED]

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