

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

CASE NO. 502008CA028051XXXXMB AB

L.M.,
Plaintiff,
-vs-
JEFFREY EPSTEIN,
Defendant.

HEARING BEFORE THE HONORABLE
DONALD HAFELE

PLAINTIFFS' MOTION TO COMPEL RESPONSES TO FIRST
REQUEST TO PRODUCE

Tuesday, May 25, 2010
Palm Beach County Courthouse
West Palm Beach, Florida 33401
8:38 - 9:14 a.m.

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 2219

APPEARANCES:

On behalf of the Plaintiffs:
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Phone: [REDACTED]

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO: 502008CA028058XXXXMB AB

E.W.
Plaintiff,
-vs-
JEFFREY EPSTEIN
AND [REDACTED]
Defendants.

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PROCEEDINGS

THE COURT: L.M. versus Epstein. Okay. It's the Plaintiff's Motion to Compel and it reflects two items that are being requested or two groups of items that are being requested. Mr. Edwards?

MR. EDWARDS: Yes, Your Honor, just so the record is clear, this is also meant to be set in E.W., an identical request, identical motion similar to the way that we have handled them in previous hearings.

THE WITNESS: Do you have any objection, Mr. Pike, to handling both at the same time?

MR. PIKE: No, Your Honor, the application would be the same for both.

THE COURT: All right. Thank you.

MR. EDWARDS: Your Honor, for the most part, I am going to rest on our motion. As Your Honor is well aware based on previous discussions, this issue, identical requests have been fully briefed to the federal court. There has been a ruling and a federal court order that is very well reasoned and very detailed.

1 And Mr. Pike and his firm have taken that
2 issue up on appeal after these particular
3 requests were granted in that stage.

4 But the points that I would like to make
5 are we are simply asking for -- let me back up.
6 We have at this point in time received no
7 discovery in terms of production, in terms of a
8 single document, in terms of any information,
9 in terms of anything other than a blanket Fifth
10 Amendment assertion. And while we have all
11 been educated on the Fifth Amendment during
12 this case and understand that it is available
13 in a broader sense than I had obviously
14 originally believed, it doesn't work in the way
15 that it is trying to be used right now.

16 In fact, it seems that it is applicable
17 when it is not only going to immediately
18 incriminate Mr. Epstein or whomever is
19 invoking, but also when it provides a link in
20 the chain to prosecution.

21 So, these particular requests are asking
22 for documents that were already in the
23 possession of the government. So therefore,
24 the existence of those documents is a foregone
25 conclusion to use the term of art normally

1 to the State or to the U.S. Attorney, the State
2 Attorney or the U.S. Attorney.

3 MR. EDWARDS: Well, we have by way of a
4 FOIA request requested the State Attorney's
5 file. They gave us some information. We have
6 learned, and I am not really sure how that
7 process works, whether it gets taken to an
8 office and everything is copied and sent out,
9 but there have been certain documents that we
10 received that other attorneys who have done a
11 similar FOIA request received a couple more
12 documents or a couple less documents.

13 And similar to the U.S. Attorney's office,
14 we have not done the FOIA request to them
15 although because there is a specific procedure
16 for getting things in the possession of the
17 FBI, we have requested it by way of motion.
18 We're going through that process but that
19 process is a lengthy process.

20 This is a much simpler process and at this
21 point in time we would know what Epstein has
22 related to our client, what he has related to
23 other clients, that would provide similar fact
24 evidence and generally what was given to him
25 and certainly information that we're entitled

1 discussed in the case law that is applicable to
2 to this issue.

3 And if the government has already had
4 these documents in its possession and has
5 provided it to Epstein, then it could not
6 possibly form a link in the chain to
7 prosecution. It's not something that the
8 government does not already know about. And
9 that is where we have decided, hey, you know
10 what, if we can't get any other information,
11 there is certain information that we're
12 definitely entitled to, and that would be all
13 the information that has already been in the
14 government's hands and provided to Epstein.

15 And so we're asking Epstein just for that
16 information that the government already had
17 within its grasp.

18 And for the remainder of the argument I
19 think it's fairly detailed in the analysis and
20 the conclusion. I will rest on the written
21 motions.

22 THE COURT: Okay. Let me just ask a
23 question that the Defense has raised and that
24 is, why have you not subpoenaed or if you have
25 what have been the fruits of documents directly

1 to.

2 THE COURT: Thank you.

3 MR. PIKE: Your Honor, may I approach?

4 THE COURT: Yes.

5 MR. PIKE: There are a couple of rules
6 that I provided counsel that Your Honor needs
7 to take into consideration, 90.408 and 90.410
8 and the corresponding Rules of Evidence 408 and
9 410 and as well Federal Rule of Evidence 502-D
10 which deals with information that is
11 interchanged between criminal lawyers, the
12 defendant, and the state or federal government
13 during plea negotiations.

14 THE COURT: Well, it's interesting because
15 I thought about that last night, but I didn't
16 see argument in any papers that you filed.

17 MR. PIKE: That's right, Your Honor, it
18 was not referenced in the papers but on the
19 appellate side which we discussed prior to the
20 court reporter showing up, it has been
21 discussed and fully briefed. And I wanted to
22 bring Your Honor's attention to it today at
23 today's special set hearing. Mr. Edwards has
24 obviously a copy of that appeal.

25 MR. EDWARDS: I was given that information

1 this morning related to these particular rules,
2 so I do have them.

3 MR. PIKE: Your Honor, if you would
4 provide me with some leeway to clear up some
5 matters, some housekeeping matters first before
6 I get into the bulk of my argument would be a
7 appreciated.

8 THE COURT: Sure.

9 MR. PIKE: As a prelude, Your Honor,
10 Plaintiff seeks all the information exchanged
11 between Jeffrey Epstein's attorneys, the USAO,
12 the State Attorney, and the local state and
13 federal government.

14 What's important here is that we all
15 understand that there are corresponding and
16 companion cases and therefore discovery needs
17 to be consistent. In the federal court cases
18 and to the extent I understand the request at
19 issue here today, we have responded that
20 Jeffrey Epstein has no, quote, discovery
21 information provided to him by the federal
22 government. And I had told Mr. Edwards that
23 not only in person, not only by motion, but
24 also by letter. All right. So Mr. Edwards
25 understands that.

1 Epstein's counsel relative to the
2 nonprosecution agreement, and therefore to the
3 extent that Your Honor orders any of this
4 information be produced, similar to the federal
5 court relief requested, we ask that an
6 in-camera hearing be held to review this
7 information to determine what attorney work
8 product and mental impressions should be
9 redacted from that information consistent with
10 Federal Rule of Evidence 502-D which is a
11 selected waiver provision and does not apply
12 the far broader waiver provisions when
13 discussing plea negotiations.

14 So those are some things that Your Honor,
15 we respectfully request that Your Honor take
16 into consideration.

17 Secondly, Your Honor, as to the State
18 Attorney's file as set forth in my motion, Jack
19 Goldberger, who as Your Honor knows is
20 Mr. Epstein's criminal lawyer, went to the
21 State Attorney's office and hand selected
22 various documents.

23 The State Attorney's office as set forth
24 in Mr. Goldberger's affidavit did not produce
25 any information to Mr. Goldberger. He went to

1 Secondly we have responded in federal
2 court motions that Epstein had not been given
3 any, quote, evidentiary materials or
4 evidentiary documents by the federal
5 government. So, to the extent that handles any
6 portion of these requests, Mr. Edwards is on
7 notice in that regard.

8 The other issue that we're dealing with is
9 these requests are far broader, the ambit of
10 the requests implicate whether or not the
11 Plaintiff is seeking just communications
12 provided by the United States Attorney's office
13 to Epstein's counsel or all of Epstein's
14 counsel's communications with, for example, the
15 USAO the State Attorney's office or any other
16 local, state, or federal law enforcement
17 agency.

18 And as Your Honor knows, if Jane Doe, if
19 L.M. and E.W. seek all communications, it
20 implicates the work product of Epstein's
21 lawyers. And if the Plaintiffs seek just the
22 communications provided by the USAO or the
23 State Attorney, it deeply implicates the work
24 product of the USAO and the State Attorney when
25 they were negotiating and communicating with

1 their file and hand selected that. So any
2 information that he hand selected would be
3 protected pursuant to the work-product
4 privilege.

5 THE COURT: I am not sure I saw
6 Mr. Goldberger's affidavit in the papers that
7 you provided. Do you have an extra copy?

8 MR. PIKE: Yes, it's attached there, Your
9 Honor.

10 THE COURT: Is it attached to the same
11 documents where the order was attached?

12 MR. PIKE: Yes, Your Honor.

13 THE COURT: The federal government's
14 order?

15 MR. PIKE: No, it's attached as Exhibit E
16 to our responsive motion.

17 THE COURT: It's the same group of
18 documents. I do have it. Thank you.

19 MR. PIKE: That would be correct. Okay.
20 As Your Honor knows, Federal Rule of Evidence
21 408, 410, and 502 all deal specifically with
22 plea negotiations and the policy, and the
23 critical public policy of encouraging
24 resolution of criminal prosecutions without
25 trial and with the understanding that

1 Defendants will be considerably more likely to
2 engage in full and frank discussions with the
3 government if they fear that statements they
4 and their counsel make to the government will
5 be used against them to their detriment.

6 The policies underlying that critical
7 issue and the rules are Federal Rules of
8 Evidence, 408 and 410 and 502.

9 Even more importantly, Your Honor, is
10 Federal Rule of Evidence 502, and obviously
11 Florida Rules of Evidence, Florida Rule of
12 Evidence counterpart 90.502, 408 and 410.

13 With regard to 502, Your Honor, there is a
14 strong public policy in favor of
15 confidentiality and plea negotiations. The
16 disclosure of such information should be
17 treated as falling within the selected waiver
18 provisions of Federal Rule of Evidence 502 and
19 not be treated as an open-ended waiver of the
20 attorney-client, work-product privileges.

21 And if the discovery order is entered, we
22 would request that an order also be entered
23 pursuant to Florida Rule of Evidence 502-D
24 mandating that the communications that led to
25 the execution of the non-prosecution agreement

1 interaction with Mr. Epstein at his house, I am
2 specifically reading from Page 41 related to
3 A.H. who is one of the victims he pled guilty
4 to.

5 Mr. Pike: Is that the same document that
6 you're seeking production of in the exact same
7 case?

8 Mr. Edwards: I don't know what you're
9 talking about. This is something from the
10 State Attorney's file.

11 Next, at the deposition of A.R. on
12 March 15th, 2010, the following exchange
13 occurred: Mr. Edwards, well, at some point in
14 time what has been marked as Defense Exhibit 1,
15 you received a grand jury investigation target
16 letter, correct? There is another message from
17 September 11, 2005, saying I got a car for, and
18 then the name is blotted out. The State
19 Attorney's office blotted out the names of
20 minors sometimes in their file.

21 It is clear, Your Honor, that Mr. Edwards
22 has the State Attorney's file. He has the Palm
23 Beach Police Incident Report. He can get the
24 information because he has received the
25 information from other sources.

1 and the communications regarding its
2 implementation should be to the extent they
3 have upon any work-product not disclosed to any
4 third party.

5 As Federal Rule of Evidence provides, a
6 federal court may order that the privilege or
7 protection is not waived by disclosure
8 connected with the litigation pending before
9 the court in which event disclosure is also not
10 a waiver in any other federal or state
11 proceeding.

12 I think Your Honor asked Mr. Edwards a
13 very pointed question. And that question was
14 whether or not Mr. Edwards had subpoenaed the
15 State Attorney's office or the United States,
16 the USAO. And in fact, Mr. Edwards as well as
17 various other lawyers have the information that
18 they are seeking here today which I have
19 deduced from other depositions.

20 For example, at the deposition of
21 Mr. Epstein of February 17th, 2010, Mr. Edwards
22 asked the following question:

23 The 87 page police report, police
24 department incident report where there are
25 numerous underage females describing their

1 In fact, Mr. Kuvin at Detective Recarey's
2 deposition who is obviously a detective for the
3 Palm Beach Police Department, the following
4 exchange occurred at that deposition:

5 Mr. Kuvin: Okay. And what were the dates
6 of the surveillance?

7 Witness: It appears she met with members
8 of the B.S.F., the Burglary Strike Force Unit.

9 Mr. Kuvin: If we go down to Page 40 in
10 your report -- first let me back up. Okay.
11 So, the chain of custody which we have marked
12 as Exhibit 5 shows that all the evidence you
13 had in this case was given to the FBI.

14 It is clear that not only Mr. Kuvin,
15 Mr. Edwards, and Mr. Horowitz who does not have
16 any state court cases but has several, I think
17 seven federal companion cases, they have this
18 information, Your Honor.

19 By way of getting this information from
20 other sources, it does not implicate Jeffrey
21 Epstein's Fifth Amendment rights. It doesn't
22 implicate Rules 408, 410, or 502.

23 But to require Jeffrey Epstein to thumb
24 through information and select as the federal
25 court has already ruled in the attached orders

1 and select information that may be responsive
 2 would, quote, and I am not quoting but I will
 3 paraphrase, but it is in the order, would,
 4 quote, require Epstein to effectively use his
 5 mind and therefore testify to the genuineness,
 6 the location of the documents which would
 7 implicate the Fifth Amendment.

8 They can get this information from other
 9 sources, and I am not quite sure what
 10 Mr. Edwards told the Court is exactly correct.
 11 I have not seen any -- obviously I don't need
 12 to see any Freedom of Information requests.
 13 But I have not seen any subpoenas issued to the
 14 FBI despite my concession earlier today that we
 15 didn't have any information relative to those
 16 particular requests.

17 I have not seen any requests to the State
 18 Attorney's office. I have not seen any
 19 subpoenas to the Palm Beach Police Department.
 20 I haven't. And Mr. Edwards can correct me if I
 21 am wrong.

22 But this all can be, you know, another
 23 avenue could be taken where all of these Fifth
 24 Amendment implications are not at issue.

25 THE COURT: Okay. Thank you.

1 documents himself, how does that implicate the
 2 work-product privilege in your mind?

3 MR. EDWARDS: I don't see how it does
 4 implicate the work-product privilege. He is
 5 taking information that was in the government's
 6 possession. And I saw his affidavit but it is
 7 somewhat inconsistent with what Mr. Pike just
 8 said. I referred to an 87-page police report
 9 that apparently Mr. Goldberger didn't select.
 10 And Mr. Pike says, well, isn't that exactly
 11 what you are asking for us to give to you in
 12 this discovery request. So, apparently they do
 13 have it. That's the thing, I don't know what
 14 they have or what they don't have.

15 But the mere fact that he selects various
 16 items and chooses not to select other items,
 17 that doesn't implicate the work-product
 18 privilege to the extent -- if it does, it's
 19 waived. That's something that the State
 20 Attorney's Office presumably knows what
 21 documents were copied for him and given to him.

22 So any information that he used to hand
 23 select or pick these documents was already
 24 information that is known to the State
 25 Attorney's Office.

1 Mr. Edwards.

2 MR. EDWARDS: Well, the requests made to
 3 the FBI and the subpoenas were made and that
 4 issue is before Judge Marra. I believed that
 5 they had responded to it but maybe it was just
 6 my office and the FBI's response. But either
 7 way, it's not only my office, Adam Horowitz's
 8 office has requested information from the FBI
 9 as well. It's a process to go through. And
 10 the easier process is to get them from Jeffrey
 11 Epstein. Rather than go through the same
 12 arguments I made again --

13 THE COURT: Let's talk about some of the
 14 arguments that Mr. Pike has reiterated and
 15 already written. And I appreciate both sides'
 16 written presentation. They were both very
 17 good.

18 Mr. Pike is taking issue on a couple of
 19 things. One is the work-product privilege
 20 enunciated by Mr. Goldberger and the affidavit
 21 relative to not so much the response of the
 22 State Attorney's office in the form of a
 23 production response to a demand for discovery,
 24 but instead Mr. Goldberger going to the State
 25 Attorney's office, apparently hand selecting

1 So, any work-product privilege that
 2 existed, which I really can't wrap my mind
 3 around that argument, it's waived by the mere
 4 fact that the State Attorney's office is in on
 5 it, they are in on the choosing, the hand
 6 selecting and the copying of these documents.

7 And I think that we're certainly entitled
 8 to know what documents are related to, not only
 9 our clients but because of the nature of this
 10 case, the other females that these documents
 11 are going to be used against our clients and
 12 have been used in depositions against our
 13 clients. They clearly asked information we do
 14 not have.

15 THE COURT: What about the issue of
 16 compromise?

17 MR. EDWARDS: Meaning?

18 THE COURT: Meaning that these documents
 19 were generated, utilized, and disseminated
 20 potentially in the course and scope of the
 21 hammering out of the plea agreements.

22 MR. EDWARDS: Well, the hammering out of a
 23 plea agreement in this case is different.

24 THE COURT: I used the plural because my
 25 understanding is the U.S. Attorney was the

1 first to hammer out the plea agreement, and
2 then that was essentially accepted by the State
3 Attorney's Office, correct?

4 MR. EDWARDS: That's correct. And that
5 information Judge Marra determined early on,
6 before any of the civil lawsuits were filed,
7 that the victims were all entitled to that. So
8 the final documents and the documents leading
9 up to that plea agreement in the negotiations,
10 those are already in our possession and Judge
11 Marra said, hey, those are yours.

12 But any other information that was either
13 conveyed to the U.S. Attorney's office or to
14 Mr. Epstein in an attempt to hash out these
15 plea deals, it directly involved our clients
16 and the crimes that were committed.

17 That is information that was intentionally
18 conveyed between the two parties. And going
19 straight off of the Federal Rule of Evidence
20 502 that was cited by Mr. Pike, it seems to say
21 in Part A, disclosure made to a federal office
22 or agency: When the disclosure is made to a
23 federal office or agency and waives the
24 attorney-client privilege or work-product
25 privilege, the waiver extends to undisclosed

1 believe the Florida, Power & Light case is
2 directly on point, 632 So.2nd 696, and even if
3 individual documents are not work-product, the
4 selection process itself represents defense
5 counsel's mental impressions and legal opinion
6 as to how the evidence and the documents relate
7 to the issues and the defense, defense is in
8 litigation. So that's fairly clear.

9 And as to Federal Rule of Evidence 502-D,
10 the ambit and the policy behind that rule is
11 pretty clear particularly in the author
12 comments and in the following subsections from
13 502-D which protect exchanges of information
14 between defense counsel and the federal and
15 state local governments.

16 Thank you, your Honor.

17 THE COURT: All right. Thank you both.
18 As far as Request Number 2, all evidence,
19 documents, statements, information, DVD, CD's,
20 and other information provided to the Defendant
21 Epstein or his attorneys in discovery by the
22 Palm Beach State Attorney's Office, in that
23 particular instance, I am going to find that
24 based upon the affidavit filed that there is a
25 work-product privilege in light of the fact

1 communication, and it goes on, when the waiver
2 is intentional, the disclosed or undisclosed
3 communication or information concerning the
4 same subject matter and they ought in fairness
5 to be considered together.

6 This is information that intentionally was
7 divulged from Mr. Epstein to the U.S.
8 Attorney's office to get a better deal and from
9 the U.S. Attorney's office to Mr. Epstein
10 presumably to convince him to plead guilty
11 which he ultimately did.

12 Either way that is information that has
13 already been exchanged. There is no
14 attorney-client or work-product privilege
15 attached to it and there is no Fifth Amendment
16 privilege attached to it.

17 THE COURT: All right. Thank you both.

18 MR. PIKE: Judge, may I briefly respond to
19 two things?

20 THE COURT: It's not typically how we do
21 things, Mr. Pike, but if it's critical I will
22 allow you to do that.

23 MR. PIKE: Very quickly, Your Honor, and I
24 appreciate that.

25 Relative to the work-product information I

1 that Mr. Goldberger, in lieu of a receipt of a
2 demand for discovery by the state,
3 hand-selected documents and those constitute in
4 this Court's view his mental impressions.

5 I will state for the record I am not
6 entirely comfortable with that ruling because
7 it would be, or at least could be construed as
8 somehow allowing a crafty defense attorney, and
9 I am not using that term disrespectfully, but
10 nevertheless, someone to be able to go in and
11 hand pick these documents and always,
12 therefore, trump this type of Fifth Amendment
13 analysis.

14 And when I say this type of Fifth
15 Amendment analysis, I am directly referring to
16 the analysis of Magistrate Judge Johnson that
17 essentially begins on Page 8 of the order dated
18 February 4, 2010.

19 But because there has not been an
20 effective argument contrary to the reservation
21 of the work-product privilege or the assertion
22 of same, I am going to find that in this
23 particular circumstance and only dealing with
24 the Palm Beach State Attorney's office, that
25 the work-product privilege would adhere; that

1 is, of course, without prejudice to the
2 Plaintiff subpoenaing or attempting to subpoena
3 the records directly from the State Attorney's
4 Office.

5 As far as the remaining documents in
6 Request Number 2, and to all of those in
7 Request Number 1, the Court follows the
8 analysis of Magistrate Judge Johnson in the
9 well-reasoned order in this Court's view. That
10 begins again on Page 8.

11 I will read into the record some the
12 operative portions: Plaintiff's Motion to
13 Compel as it relates to the first category of
14 documents consisting of documents the federal
15 government gave to Epstein in the course of its
16 plea discussions with him is granted. The law
17 is well established that the Fifth Amendment
18 privilege against self-incrimination does not
19 extend to documents whose existence is known to
20 the government or is a foregone conclusion,
21 citing Fisher versus U.S., 425 U.S. at 410;
22 United States versus Hubbell, 530 U.S. 27, 44;
23 and United States versus Ponds, 454 F.3d, 313
24 and 325.

25 Thus, while the Fifth Amendment covers

1 quote, in an attempt to get around this settled
2 principle of law, Epstein argues that forcing
3 him to give Plaintiff the discovery produced by
4 the government would implicate the Fifth
5 Amendment in that such production might
6 disclose witnesses helpful to Epstein.

7 And I am going to omit the citations for
8 the record. This argument misses the point.
9 As Plaintiff correctly observes the question is
10 not whether the government's documents have
11 information that might be harmful to Epstein's
12 defense, indeed, a reasonable presumption would
13 be that the documents do contain information
14 harmful to Epstein and that is precisely why
15 the government was showing Epstein the
16 documents in the first place; instead the only
17 pertinent question is whether turning over the
18 government's documents to Plaintiff somehow
19 forces Epstein to provide testimony to the
20 government in contravention of the privilege
21 against self-incrimination guaranteed by the
22 Fifth Amendment. This question can only be
23 reasonably answered in the negative.

24 And again without reading in full Judge
25 Johnson's analysis, I would adopt same and

1 situations where the act of producing documents
2 has communicative aspects of its own wholly
3 aside from contents of the papers produced,
4 citing to Fisher, the doctrine does not apply
5 when the government has prior knowledge of
6 either the existence of the whereabouts of the
7 documents produced, reciting to Hubbell.

8 Other requests seek production of
9 documents the government itself gave to Epstein
10 making the government's prior knowledge of
11 documents sought an obvious and undeniable
12 foregone conclusion. As such Epstein cannot
13 reasonably and in good faith argue that in
14 producing these documents to Plaintiff he will
15 be incriminating himself. Cite to the case of
16 In re grand Jury Subpoena, 383 F.3d 905 and
17 910, noting there can be no self-incrimination
18 by production where the existence and location
19 of the documents are foregone conclusion and
20 the claimant adds little or nothing to the sum
21 total of the government's information by
22 conceding that he is, in fact -- strike that.
23 By conceding that he, in fact, does have the
24 documents.

25 Judge Johnson goes on to state that,

1 grant the Plaintiff's motion as to all of the
2 materials other than what the Court has deemed
3 work-product and that constitutes those
4 documents that Mr. Goldberger hand picked from
5 the State Attorney's Office here in Palm Beach.

6 Again that is without prejudice to a
7 direct subpoena being issued to the State
8 Attorney's office relative to their file and
9 will deal with any objections they may have and
10 as to any victims or anything of that nature,
11 whether they must attempt to protect, if
12 applicable, in any such statements.

13 MR. EDWARDS: Your Honor, just in that
14 regard would I be permitted to send an
15 interrogatory asking roughly how many
16 documents? I mean, because now I am thinking
17 what if he has hand selected the entire file
18 but for one document.

19 THE COURT: Well, I mean, that's what I
20 was going to ask you, how you want to go about
21 that because I think that I will require -- I
22 think I will appropriately require a privilege
23 log to be prepared by Mr. Goldberger that
24 will -- without necessarily identifying each of
25 the documents so as to create an invasion of

1 the work-product privilege -- at the very least
2 provide the number, the dates of same, and the
3 general nature of same, statement of witness,
4 statement of alleged victim, things of that
5 nature of how they should be titled.

6 MR. EDWARDS: Okay.
7 THE COURT: They don't have to
8 specifically state who the alleged witness or
9 who the alleged victim was only so that the
10 Plaintiff has the opportunity to review the
11 extent, nature, and number of documents that
12 have been reviewed, and therefore, at least get
13 the information in that respect from the
14 Defendant.

15 MR. EDWARDS: Thank you, Your Honor.

16 MR. PIKE: Your Honor, just so I am clear,
17 relative to the adoption of Judge Magistrate
18 Johnson's order --

19 THE COURT: Sure.

20 MR. PIKE: -- would Your Honor also adopt,
21 and I think you attempted to do so at the end
22 there, Judge Johnson's analysis relative to
23 Federal Rule of Evidence 408, 410, and 502?

24 THE COURT: Let me go back to the order
25 for a moment, please.

1 CERTIFICATE
2
3 STATE OF FLORIDA
4 COUNTY OF PALM BEACH

5
6
7 I, Cynthia Hopkins, Registered Professional
8 Reporter and Florida Professional Reporter, State of
9 Florida at large, certify that I was authorized to
10 and did stenographically report the foregoing
11 proceedings and that the transcript is a true and
12 complete record of my stenographic notes.

13 Dated this 2nd day of June, 2010.

14
15
16 *Cynthia J. Hopkins* 
Cynthia Hopkins, RPR

17 Job #2219
18
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1 Yes, as Judge Johnson pointed out and I
2 reviewed last night, she is ruling that these
3 materials are available for discovery under the
4 broad federal discovery rules and not
5 necessarily admissible, so I will adopt that
6 same rationale as well.

7 MR. PIKE: Your Honor, one more question:
8 As we discussed prior to the hearing is Judge
9 Magistrate Johnson's ruling is under appeal
10 right now. How do we deal with that in your
11 courtroom relative to your adoption today?

12 THE COURT: Well, again, I will give you
13 30 days to produce it, and if you seek to take
14 it up on certiorari, you have the time to do
15 that.

16 MR. EDWARDS: Thank you, Your Honor.

17 THE COURT: Okay. Thank you very much
18 guys and have a good rest of the week.

19 MR. EDWARDS: All right. Hope you feel
20 better.

21 THE COURT: I will.

22 MR. PIKE: Thank you, Judge.

23 THE COURT: Thanks madam court reporter as
24 well.

25 (The hearing was concluded.)