

JEFFREY EPSTEIN,

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

CASE NO. 502009CA040800XXXXMBAG

Plaintiff,

vs.

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

Defendants.

**PLAINTIFF'S AMENDED MOTION TO COMPEL DISCOVERY RESPONSES
AND FOR SANCTIONS**

Plaintiff Jeffrey Epstein, by and through his undersigned counsel and pursuant to Rule 1.380 of the *Florida Rules of Civil Procedure*, hereby moves this Court to enter an order compelling the Defendant Bradley Edwards, yet again, to provide responses to Plaintiff's Request for Production. Plaintiff likewise requests that this Court order sanctions against Defendant Edwards for his direct and flagrant disregard of this Court's previous Order dated April 10, 2012. In support thereof, Plaintiff states:

INTRODUCTION

On March 9, 2012, Plaintiff Epstein served upon Defendant Edwards a Motion to Compel and to Amend and Lift a Protective Order. A true and correct copy of Plaintiff's Motion is attached hereto as "Exhibit A." On April 10, 2012, this Court entered an Order on Plaintiff's Motion to Compel, stating that "within twenty (20) days of the date of this Order, the Defendant EDWARDS shall produce any non-privileged documents as identified in Paragraph 13 of EDWARDS' [sic] Motion to Compel and Amend Protective Order." See *Order entered April 10, 2012*, a true and correct copy of which is attached hereto as "Exhibit B." The Order further avowed that "[n]othing in this Order shall constitute any waiver or ruling upon any privilege that may apply to said documents and the Defendant EDWARDS and/or others may file an objection to any such documentation on any privilege grounds and ***shall file a privilege log specifically identifying such documents.***" See *Exhibit B* (emphasis added). Accordingly, all responses were due on or before April 30, 2012.

On May 9, 2012, Plaintiff received Defendant Edwards' untimely response to the afore-referenced Request to Produce. A perfunctory review of the items provided by Edwards established that his response was both incomplete and deficient. Edwards' response contained nothing more than partial electronic communications between himself and three or four of the countless reporters with whom he had communications during the relevant time period. On or about May 15, 2012, and after sending a letter to Defendant explaining his non-compliance, Plaintiff filed its initial Motion to Compel

and for Sanctions. In response thereto, Defendant served upon Plaintiff a privilege log¹ as to the electronic mail correspondence between Edwards and a member of the press, [REDACTED]. There was no reference, objection, or privilege asserted as to the rest of the items Defendant was ordered by this Court to produce; to wit: “[a]ll e-mails, data, correspondence, and similar documents dated April 1, 2008 through August 1, 2010 by and between Bradley J. Edwards, Scott W. Rothstein, Marc, Nurik, Cara Holmes, Mike Fisten and any on of he following regarding or mentioning Jeffrey Epstein in any way: (a) the U.S. Attorney’s Office, (b) the State Attorney’s Office, (c) the Federal Bureau of Investigation, (d) [REDACTED] and (e) any other news employees or reporters.” *See* Exhibit A. Accordingly, Defendant’s response undeniably corroborates that he wholly disregarded this Court’s Order, failed to comply with this Court’s Order to produce the items responsive to Plaintiff’s Request, and failed to provide any privilege log with respect to the afore-referenced parties in Plaintiff’s Request.

Finally, and of paramount concern, is the undeniable fact that these requests were due to Plaintiff on or before April 30, 2012; two full weeks before the deadline imposed upon Plaintiff by the Federal court to turn over documents Plaintiff intends to utilize in its deposition of Scott Rothstein; the Co-Defendant in this case. The documents were due to the Federal court on or before May 15, 2012, and Plaintiff’s deposition of Scott Rothstein is now scheduled for June 13, 2012; dates about which

¹ While the document is labeled “Privilege log,” it contains an actual objection to the Discovery request as “irrelevant.”

Defendant has firsthand knowledge and has been aware for several weeks. To date, and notwithstanding the above, Defendant has willingly, intentionally, and irrefutably ignored an Order from this Court resulting in his calculated thwarting of the discovery process. As such, and as demonstrated more fully below, Plaintiff's requested order and sanctions are warranted.

MEMORANDUM OF LAW

As this Court is aware, it Ordered Defendant Edwards to provide the following specific items:

[a]ll e-mails, data, correspondence, and similar documents dated April 1, 2008 through August 1, 2010 by and between Bradley J. Edwards, Scott W. Rothstein, Marc, Nurik, Cara Holmes, Mike Fisten and any on of he following regarding or mentioning Jeffrey Epstein in any way: (a) the U.S. Attorney's Office, (b) the State Attorney's Office, (c) the Federal Bureau of Investigation, (d) [REDACTED] and (e) any other news employees or reporters.

See Exhibit A. The Order further avowed that Defendant Edwards was permitted to assert any alleged privilege by filing "a privilege log specifically identifying such documents." *See* Exhibit B. Edwards not only failed to provide the items requested, but also failed to provide a privilege log as mandated. It is well-settled law that if a party alleges that information requested from it is protected by privilege, then a privilege log must be prepared and attached to the response, ***or the privilege is waived.*** *See TIG Insurance Corp. of America v. Johnson*, 799 So. 2d 339 (Fla. 4th DCA 2001) (stating that failure to provide a reason for privilege and prepare a privilege log constitutes waiver of the privilege) (emphasis added). Here, Edwards fails to either respond to the Request to Produce or assert any privilege as Court ordered. A court has

the inherent power to implement and enforce effective judicial proceedings pursuant to pretrial rules. As such, when a party fails to comply with a pretrial order, a court has broad discretion in determining sanctions. *First Republic Corp. of America v. Hayes*, 431 So. 2d 624 (Fla. 3d DCA 1983). Accordingly, Defendant Edwards' inapposite and patent disregard for this Court's Order mandates sanctions.

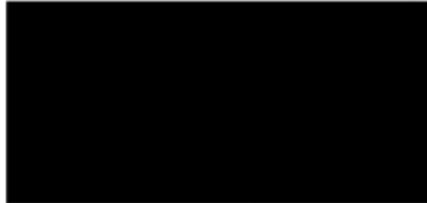
Finally, Plaintiff certifies that he "in good faith, has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action." FLA. R.CIV. P. 1.380. A true and correct copy of the correspondence sent to Defendant Edwards regarding the first Motion to Compel is attached hereto as "Exhibit C," and the second, which was sent after receiving the [REDACTED] "privilege log" is attached hereto as "Exhibit D." Pursuant to Rule 1.380 of the *Florida Rules of Civil Procedure*, Epstein is entitled to reasonable attorney's fees necessitated by Defendant's flagrant disregard of both this Court's Order and the afore-referenced Rules of Civil Procedure.

CONCLUSION

Accordingly, for all of the reasons delineated above and in reliance upon the applicable law cited herein, Plaintiff Jeffrey Epstein respectfully requests that this Court, yet again, Order Defendant Bradley Edwards to respond in full to Plaintiff's Request to Produce, award attorney's fees as sanctions, and such other and further relief as this Court deems proper, including any available for Edwards' interference and impediment regarding the deposition of Scott Rothstein.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed on the attached service list, via facsimile and US Mail, this May 30, 2012.

Tonja Haddad Coleman, Esq.
Fla. Bar No.: 0176737
LAW OFFICES OF TONJA HADDAD, PA



SERVICE LIST

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Jack Scarola, Esq.
Searcy Denney Scarola et al.



Jack Goldberger, Esq.
Atterbury, Goldberger, & Weiss, PA



Marc Nurik, Esq.



Bradley J. Edwards, Esq.
Farmer Jaffe Weissing Edwards Fistos Lehrman



Lilly Ann Sanchez, Esq.
LS Law Firm

