

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

CASE NO.: 502009CA040800 AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

SCOTT ROTHSTEIN, etc., et al.,

Defendant(s).

ORDER ON PLAINTIFF'S
MOTION TO DISMISS COUNTERCLAIM OF DEFENDANT EDWARDS

THIS CAUSE came before the Court upon the Plaintiff's Motion to Dismiss the Counterclaim of the Defendant, BRADLEY J. EDWARDS. The Court heard argument of counsel and has reviewed the authorities they have cited, and is otherwise fully advised in the premises.

First, as to Count I, the claim for abuse of process, the Court finds that there are sufficient allegations in the Complaint to establish an ulterior purpose or motive. Furthermore, the allegations are that each and every act in the prosecution of the case in chief have been for an ulterior purpose or motive. Such Counterclaims are no longer barred in Florida. *See e.g., Blue v. Weinstein*, 381 So.2d 308 (Fla. 3rd DCA 1980).

In regard to the malicious prosecution claim, this Court recognizes that, in general, a Counterclaim for malicious prosecution cannot arise out of the allegations contained in the Complaint. Therefore, in general, a claim for malicious prosecution arising out of dismissed counts of a Complaint is improper as long as the Complaint is still pending. However, the Court finds that the circumstances in the present matter are distinguishable from the cases cited by the Plaintiff. In this case, a voluntary dismissal of those claims was filed by the Plaintiff. Therefore, we are not faced with a situation where

there is non-final order of court because the claims are interrelated to a remaining claim. In this case, the Plaintiff voluntarily chose to dismiss those claims. Counsel has provided no authority for the proposition that a voluntary dismissal of a claim against a party is not a bona fide termination.

Nevertheless, this Court has serious concerns as to the claimed "damages" set forth in the Counterclaim. Therefore, further argument on the damages issues only is scheduled for **Wednesday, April 18, 2012 at 8:45 a.m. (UMC), Courtroom 9C, Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida.** Counsel shall provide to the Court at that time authority for the damages allowable under the claim or malicious prosecution or abuse of process.

DONE AND ORDERED this 29th day of March, 2012 at West Palm Beach,
Palm Beach County, Florida.



DAVID F. CROW
CIRCUIT COURT JUDGE

Copy furnished:
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