

JEFFREY EPSTEIN,

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

CASE NO.: 502009CA040800XXXXMBAG

JUDGE: CROW

Plaintiff,

vs.

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

Defendants.

_____/

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S RESPONSE IN
OPPOSITION TO DEFENDANT/COUNTER-PLAINTIFF BRADLEY
EDWARDS'S RENEWED MOTION FOR LEAVE TO ASSERT CLAIM FOR
PUNITIVE DAMAGES AND MOTION FOR SANCTIONS AGAINST EDWARDS**

Plaintiff/Counter-Defendant Jeffrey Epstein, by and through his undersigned counsel and pursuant to Rule 1.190(f) of the *Florida Rules of Civil Procedure*, §768.72 of the *Florida Statutes*, and this Court's prior ruling on July 13, 2011, hereby files this Response in Opposition to Defendant/Counter-Plaintiff Bradley Edwards's Renewed Motion for Leave to Assert Claim for Punitive Damages and Motion for Sanctions against Edwards. In support thereof, Plaintiff/Counter-Defendant Jeffrey Epstein states:

PROCEDURAL HISTORY OF PUNITIVE DAMAGES ISSUE

On October 19, 2010, Defendant/Counter-Plaintiff Bradley Edwards (hereinafter “Edwards”) filed his first Motion for Leave to Assert Claim for Punitive Damages against Plaintiff/Counter-Defendant Jeffrey Epstein (hereinafter “Epstein”). This Honorable Court denied that motion on July 13, 2011, after an extensive and tedious hearing, citing as grounds therefor the glaring procedural deficiencies contained in Edwards’s Motion. A true and correct copy of the transcript of the hearing at which the Motion was denied is attached hereto as “Exhibit A.” On August 17, 2012, Edwards filed his Renewed Motion for Leave to Assert Claim for Punitive Damages. The renewed motion is **identical in all material respects** to the original Motion that this Court denied, yet Edwards requests that this Court grant this Renewed Motion without having addressed, corrected, or adapted the palpable deficiencies therein that were previously declared objectionable by this Court. This Court specifically directed Edwards, in meticulous detail, as to how he was required to correct the procedural deficiencies endemic to the original Motion. Edwards, however, has failed to either heed to this Court’s Order or abide by the basic requisites to assert a motion to plead punitive damages. For this reason, as explained more fully below, Edwards’s Renewed Motion for Leave to Assert Claim for Punitive Damages must be denied and Sanctions awarded for Edwards’s blatant disregard of this Court’s previous ruling.

a. This Motion was Already Denied by this Court as Procedurally Deficient

Edwards’s Motion¹ for Leave to Assert Claim for Punitive Damages against Plaintiff/Counter-Defendant Jeffrey Epstein was previously denied by this Court, yet he re-filed the exact same Motion, which must also be denied. First, Edwards’s two-page

¹ Because the Motions are identical, with the exception of the Certificate of Service Date and addition of new attorneys, Epstein will reference each as the Motion and the Renewed Motion, respectively.

Motion is comprised of an introductory paragraph and four short numbered paragraphs. It cites neither procedural authority nor any law pursuant to which for his request to claim punitive damages is permitted. While the glaring absence of rules of civil procedure and case law in Edwards's pleadings is routine, this Court has already ruled that it is neither tolerated by this Court nor accepted in a Motion for Leave to Assert Claim for Punitive Damages. As such, the same procedural deficiencies should not be permitted in his Renewed Motion.

Next, Edwards's Renewed Motion, like his first Motion, endeavors to improperly incorporate the record evidence from his previously-filed Motion for Summary Judgment; an act that this Court has already ruled is impermissible. As this Court is aware, Edwards's Motion for Leave to Assert Claim for Punitive Damages must prove to the Court an entitlement to plead a claim for punitive damages. To properly do so, Edwards must demonstrate a reasonable basis upon which to assert this claim. *See* FLA. R. CIV.P 1.190(f). To establish a reasonable basis, both this Court and the *Florida Rules of Civil Procedure* require a "written summary of evidence, complete with deposition testimony and affidavits as part of the motion for punitive damages." Fla. R. Civ.P 1.190(f). This Court, in denying the Motion, explained to Edwards what is required under Rule 1.190(f) to pass muster procedurally. This Court avowed:

[Rule] 1.190, which is the rule on amended and supplemental pleadings, was amended in two thousand, I believe, 2003 pursuant to Florida Statute 768.72 to give guidance as to how you go about doing this. And the footnotes to the Civil Rules of Procedure... cites it to [sic], it says that subsection is amended to comply with the case of Beverly, *Beverly Health And Rehabilitation Services, Inc. versus Meeks*. And I have been applying this case before they actually incorporated it into the rules, but that case specifically said, it set up a procedure, at least, in the Third District for motions for punitive damages. And, I'll quote from paragraph – I don't know what page it is here. But, basically, says this – and I've been

applying this in the past as well. **Accordingly, it is and shall be the practice of this Court to require a written summary of the evidentiary proffer with appropriate page and line citations, deposition testimony, affidavits** need to be filed and served in advance of the hearing so the defendant will have a reasonable opportunity. The motion doesn't do that.

See Transcript from July 13, 2011 hearing page 36; line 9- page 37; line 4 (emphasis added). Because Edwards's Motion failed to provide **"a written summary of the evidentiary proffer with appropriate page and line citations, deposition testimony, affidavits,"** the Court determined that the Motion was procedurally deficient and denied same.

Edwards repeatedly disagreed with this Court's assessment that his Motion did not comply with Rule 1.190(f) of the *Florida Rules of Civil Procedure* and §768.72 of the *Florida Statutes*, and in support of his assertion recited to the Court the introductory paragraph from his Motion, arguing again that by referring to the previously-filed record evidence, he incorporated that record evidence into this Motion for Leave to Assert Claim for Punitive Damages. This Court rejected Edwards's argument, and cautioned Edwards that incorporating previously filed "things" into other documents is not acceptable procedure *for any motion*. The Court further commanded Edwards to present each piece of record evidence in support of a particular motion contemporaneously therewith; which he has still failed to do. This Court imparted the following straightforward, unadorned instructions to Edwards:

I want you to make a motion pursuant to what I have just said. I don't want any incorporated things, you know . . . You know, when you incorporate something else that doesn't work for me. I need it in front of me. I need the page, line so I can read it as a motion . . . Again, Mr. Scarola, we're going to do it my way.

Transcript from July 13, 2011 hearing page 38; lines 4-25. The Court continued:

I want you to file your motion, set it for hearing and I'll look at it. And then it goes on to say that what happens is the other side, okay, this has to be done, at least thirty days, at least, this rule says thirty days before the motion, before the motion is set for hearing. To give the opportunity for the defendants to file something specifically in opposition, page and line and that way I can compare and contrast. That's the way I like to do it. It's very complex in these cases and, you know, I just do not have the ability to go back and do it. So I want you to do that.

Transcript from July 13, 2011 hearing page 39; lines 2-14. In response to the final instruction, Edwards replied: "I understand the Court's Direction." *Transcript from July 13, 2011 hearing; page 39; line 15.* However, as demonstrated by Edwards's filing of his "Renewed Motion," which contains the same glaring deficiencies, such was not the case. Consequently, Edwards's Motion must be again denied by this Court.

b. The Renewed Motion is Procedurally Deficient and in Direct Contravention with this Court's Prior Ruling, Mandating Sanctions

As anticipated by this Court in its July 11, 2011 ruling, Edwards filed a Renewed Motion for Leave to Assert a Claim for Punitive Damages on August 17, 2012. This renewed Motion is no different from the original Motion with which this Court took serious issue. Word for word, line by line, this motion reads exactly as the previous Motion that was denied by this Court; with the exception of the certificate of service date and the list of parties upon whom it was served. Edwards, with flagrant disregard for this Court's prior ruling irrefutably fails, yet again, to meet even the essential pleading requirements; to wit: Edwards fails to cite to proper authority in support of his assertion; fails to prove an entitlement to a claim in punitive damages; fails to provide a reasonable basis upon which to base an entitlement to a claim in punitive damages; fails to attach or file *any* record evidence on which this motion is based; fails to provide a written summary of the proffered evidence; fails to provide deposition testimony; and fails to

provide affidavits. As such, because the original Motion was denied for its failure to comply with the procedural requisites as delineated not only by the applicable law but also by this Court, so, too, must this Motion.

Finally, Edwards's filing of this *identical* Motion to Assert a Claim for Punitive Damages that was already denied irrefutably corroborates that he completely disregarded this Court's Order, mandating sanctions. 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). Rule 1.380 of the *Florida Rules of Civil Procedure* likewise governs failure to comply with a prior court order and mandates that such failure "may be considered a contempt of the court." FLA. R. CIV.P. 1.380(b). Accordingly, Defendant Edwards's inapposite and patent disregard for this Court's Order mandates sanctions.

CONCLUSION

Accordingly, for all of the reasons delineated above and in reliance upon the applicable law cited herein and this Court's prior ruling, Jeffrey Epstein respectfully requests that this Court, yet again, deny Edwards's Motion to Assert a Claim for Punitive Damages, award attorney's fees in favor of Epstein as sanctions, and such other and further relief as this Court deems proper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed on the attached service list, via Electronic Service, this October ____, 2012.

Tonja Haddad Coleman, Esq.
Fla. Bar No.: 0176737
LAW OFFICES OF TONJA HADDAD, PA
315 SE 7th Street
Suite 301
Fort Lauderdale, Florida 33301

[REDACTED] (facsimile)
[REDACTED]

SERVICE LIST

CASE NO. 502009CA040800XXXXMBAG

Jack Scarola, Esq.
Searcy Denney Scarola et al.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Jack Goldberger, Esq.
Atterbury, Goldberger, & Weiss, PA
250 Australian Ave. South
Suite 1400
West Palm Beach, FL 33401

Marc Nurik, Esq.
1 East Broward Blvd.
Suite 700
Fort Lauderdale, FL 33301

Bradley J. Edwards, Esq.
Farmer Jaffe Weissing Edwards Fistos Lehrman
425 N Andrews Avenue
Suite 2
Fort Lauderdale, Florida 33301

Lilly Ann Sanchez, Esq.

LS Law Firm
Four Seasons Tower - 15th Floor
1441 Brickell Avenue
Miami, Florida 33131

Fred Haddad, Esq.
1 Financial Plaza
Suite 2612
Fort Lauderdale, FL 33301