SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY P.A.
Attorneys at Law

WEST PALM BEACH OFFICE:
2139 PALM BEACH LAKES BLVD.
WEST PALM BEACH, FLORIDA 33409
P.O. BOX 3626
WEST PALM BEACH, FLORIDA 33402
(561) 686-6300
1-800-780-8607
1-800-220-7006 Spanish

TALLAHASSEE OFFICE:
THE TOWLE HOUSE
517 NORTH CALHOUN STREET
TALLAHASSEE, FL 32301-1231
[redacted]

Tuesday, October 1, 2013

VIA E-MAIL ONLY: [redacted]

Alvin Capp, Esquire
Mediation, Inc.
Regions Financial Tower
1555 Palm Beach Lakes Boulevard, Suite 600
West Palm Beach, FL 33401

Re: Edwards, Bradley adv. Epstein
Our File No.: 291874

Dear Mr. Capp:

Despite the total absence of competent evidence to demonstrate that Bradley Edwards participated in any fraud against Jeffrey Epstein, and in the face of uncontrovertible evidence demonstrating the propriety of every aspect of Edwards' involvement in the prosecution of legitimate claims against Epstein, Epstein sued Bradley Edwards. Epstein sexually abused three clients of Edwards – L.M., E.W., and Jane Doe – and Edwards properly and successfully represented them in a civil action against Epstein. Nothing in Edwards's capable and competent representation of his clients provided any basis for a civil lawsuit against him, but the facts did not deter Epstein from engaging in what was a blatant effort to extort Bradley Edwards, utilizing the nearly limitless resources of a vengeful opponent. The extortion failed but the vengeful assault by Epstein continues.

Epstein's action against Edwards essentially alleged that Epstein was damaged by Edwards, acting in concert with Scott Rothstein (President of the Rothstein Rosenfeldt Adler law firm ("RRA") where Edwards worked for a short period of time). Epstein alleged that Edwards joined Rothstein in the abusive prosecution of sexual assault cases against Epstein to "pump" the cases to Ponzi scheme investors. As described by Epstein, investor victims were told by Rothstein that three minor girls who were sexually assaulted by Epstein: L.M., E.W., and Jane Doe were to be paid up-front money to prevent those girls from settling their civil cases against Epstein. In Epstein's view, these child sexual assault cases had "minimal value" (Complaint &

42(h)), and Edwards's refusal to force his clients to accept modest settlement offers was claimed to breach some duty that Edwards owed to Epstein. Interestingly, Epstein never states that he actually made any settlement offers. Even more interestingly, Epstein was never able to explain how a scheme to defraud third party investors ever caused any legally cognizable damage to Epstein himself.

The supposed "proof" of the Complaint's allegations against Edwards included Edwards's alleged contacts with the media, his attempts to obtain discovery from high-profile persons with whom Epstein socialized, and use of "ridiculously inflammatory" language in arguments in court. Remarkably, Epstein filed such allegations against Edwards despite the fact that Epstein had sexually abused each of Edwards's clients and others while they were minors. Indeed, in discovery Epstein has asserted his Fifth Amendment privilege rather than answer questions about the extent of the sexual abuse of his many victims. Even more remarkably, after filing his suit against Edwards, Epstein settled the three cases Edwards handled for an amount that Epstein insisted be kept confidential. Without violating the strict confidentiality terms required by Epstein, the cases did not settle for the "minimal value" that Epstein suggested in his Complaint.

Because Epstein elected to hide behind the shield of his right against self incrimination to preclude his disclosing any relevant information about the criminal activity at the center of his claims, he was barred from prosecuting his case against Edwards. Under the well-established "sword and shield" doctrine, Epstein could not seek damages from Edwards while at the same time asserting a Fifth Amendment privilege to block relevant discovery. Here, Epstein tried to do precisely what the "well settled" law forbids. Specifically, he tried to obtain "affirmative relief" – i.e., forcing Edwards to pay money damages – while simultaneously precluding Edwards from obtaining legitimate discovery at the heart of the allegations that form the basis for the relief Epstein was seeking. As recounted more fully in the statement of undisputed facts filed in support of Edwards' Motion for Summary Judgment, Epstein has refused to answer such basic questions about his lawsuit as:

- "Specifically what are the allegations against you which you contend Mr. Edwards ginned up?"
- "Well, which of Mr. Edwards' cases do you contend were fabricated?"
- "Is there anything in L.M.'s Complaint that was filed against you in September of 2008 which you contend to be false?"
- "I would like to know whether you ever had any physical contact with the person referred to as Jane Doe in that [federal] complaint?"

- "Did you ever have any physical contact with E.W.?"
- "What is the actual value that you contend the claim of E.W. against you has?"

The matters addressed in these questions were the central focus of Epstein's claims against Edwards. Epstein's refusal to answer these and literally every other substantive question put to him in discovery deprived Edwards of even a basic understanding of the evidence alleged to support claims against him and substantiated Edwards' position that no such evidence ever existed. Epstein's case was doomed to fail on the basis of the "sword and shield" doctrine alone. But other grounds were equally and independently fatal to Epstein's attempt to use the legal system to scare Edwards into submission.

All of Edwards' conduct in the prosecution of valid claims against Epstein was protected by the absolute bar of the litigation privilege.

And most fundamentally, Epstein's claims against Edwards were not only unsupported by but also directly contradicted by all of the record evidence. From the beginning, Edwards diligently represented three victims of sexual assaults perpetrated by Epstein. Each and every one of Edwards's litigation decisions was grounded in proper litigation judgment about the need to pursue effective discovery against Epstein, particularly in the face of Epstein's stonewalling tactics. Edwards's successful representation finally forced Epstein to settle and pay appropriate damages. Effective and proper representation of child victims who have been repeatedly sexually assaulted cannot form the basis of a separate, "satellite" lawsuit, and therefore Edwards was entitled to summary judgment on those grounds as well.

Facing these insurmountable obstacles, on the eve of the scheduled hearing on Edwards' Motion for Summary Judgment, Epstein dismissed all of his claims against Edwards.

Put simply, Epstein made allegations that he knew were baseless, that he never intended to try to support, and that were precluded as a matter of well-established law. His lawsuit was merely a desperate measure by a serial pedophile to prevent being held accountable for repeatedly sexually abusing minor females. Epstein's ulterior motives in filing and prosecuting his lawsuit are blatantly obvious. Epstein's behavior is another clear demonstration that he feels he lives above the law and that because of his wealth he can manipulate the system and pay for lawyers to do his dirty work - even to the extent of having them assert baseless claims against other members of the Florida Bar. Epstein's Complaint against Edwards was nothing short of a far-fetched, fictional fairy-tale with absolutely no evidence whatsoever to support his preposterous

claims. It was his last ditch effort to escape the public disclosure by Edwards and his clients of the nature, extent, and sordid details of Epstein's life as a serial child molester.

The bulk of Epstein's claims against Edwards hinge on the premise that Edwards was involved in a Ponzi scheme run by Scott Rothstein. Broad allegations of wrongdoing on the part of Edwards were scattered willy-nilly throughout the complaint. None of the allegations provided any substance as to how Edwards actually assisted the Ponzi scheme, and allegations that he "knew or should have known" of its existence all failed for one straightforward reason: Edwards was simply not involved in any Ponzi scheme. He provided sworn testimony and an affidavit in support of that assertion, and there was not (and could never be) any contrary evidence.

Edwards was deposed at length in this case. As his deposition makes crystal clear, he had no knowledge of any fraudulent activity in which Scott Rothstein may have been involved. See, e.g., Edwards Depo. at 301-02 (Q: " . . . [W]ere you aware that Scott Rothstein was trying to market Epstein cases . . . ?" A: "No.").

Edwards supplemented his deposition answers with an extremely detailed Affidavit that declared in no uncertain terms his lack of involvement in any fraud perpetrated by Rothstein. In view of this clear evidence rebutting all allegations against him, Epstein was required to "produce counter-evidence establishing a genuine issue of material fact." Epstein could not meet this obligation. Indeed, when asked at his deposition whether he had any evidence of Edwards's involvement, Epstein declined to answer, purportedly on attorney-client privilege grounds:

> Q. I want to know whether you have any knowledge of evidence that Bradley Edwards personally ever participated in devising a plan through which were sold purported confidential assignments of a structured payout settlement? . . .
> A. I'd like to answer that question by saying that the newspapers have reported that his firm was engaged in fraudulent structured settlements in order to fleece unsuspecting Florida investors. With respect to my personal knowledge, I'm unfortunately going to, today, but I look forward to at some point being able to disclose it, today I'm going to have to assert the attorney/client privilege.

Epstein alleged that Edwards somehow improperly enhanced the value of the three civil cases he had filed against Epstein. Edwards represented three young women – L.M., E.W., and Jane Doe – by filing civil suits against Epstein for his sexual abuse of them while they were minors. Epstein purported to find a cause of action for this by alleging that Edwards somehow was involved in "'pumping' these three cases to

investors." Edwards could not have possibly "pumped" the cases to investors when he never participated in any communication with investors. However, Epstein's "pumping" claims fail for an even more basic reason: Edwards was entitled – indeed ethically obligated as an attorney – to secure the maximum recovery for his clients during the course of his legal representation. As is well known, "[a]s an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system." Fla. Rules of Prof. Conduct, Preamble. Edwards therefore was required to pursue (unless otherwise instructed by his clients) a maximum recovery against Epstein. Edwards, therefore, could never be liable for doing something that his ethical duties as an attorney required. In a further effort to harass Edwards, Epstein also filed a bar complaint with the Florida Bar against Edwards. The Florida Bar dismissed the complaint.

Another reason that Epstein's claims that Edwards was "pumping" cases for investors fails is that Edwards filed all three cases almost a year before he was hired by RRA or even knew of Scott Rothstein. Epstein makes allegations that the complaints contained sensational allegations for the purposes of luring investors; however, language in the complaints remained virtually unchanged from the first filing in 2008 and overwhelming evidence supports the conclusion that all of the facts alleged by Edwards in the complaints were true.

Epstein ultimately paid to settle all three of the cases Edwards filed against him for more money than he paid to settle any of the other claims against him. At Epstein's request, the terms of the settlement were kept confidential. Epstein chose to make this payment as the result of a federal court ordered mediation process, which he himself sought (over the objection of Jane Doe, Edwards' client in federal court) in an effort to resolve the case. Notably, Epstein sought this settlement conference – and ultimately made his payments as a result of that conference - in July 2010, more than seven months after he filed this lawsuit against Edwards. Accordingly, Epstein could not have been the victim of any scheme to "pump" the cases against him, because he never paid to settle the cases until well after Edwards had left RRA, after Edwards had severed all connection with Scott Rothstein (December 2009), and well after the details of Rothstein's Ponzi scheme had been widely publicized.

In addition, if Epstein had thought that there was some improper coercion involved in, for example, Jane Doe's case, his remedy was to raise the matter before Federal District Court Judge Kenneth A. Marra who was presiding over the matter. Far from raising any such claim, Epstein simply chose to settle that case. He was therefore barred by the doctrine of res judicata from somehow re-litigating what happened in (for example) the Jane Doe case. The doctrine of res judicata makes a judgment on the merits conclusive 'not only as to every matter which was offered and received to sustain or defeat the claim, but as to every other matter which might with propriety

have been litigated and determined in that action. Obviously, any question of improper "pumping" of a particular case could have been resolved in that very case rather than re-litigated in satellite litigation.

Epstein also alleged that Edwards improperly pursued discovery from some of Epstein's close friends. Such discovery, Epstein claimed, was improper because Edwards knew that these individuals lacked any discoverable information about the sexual assault cases against Epstein. Each of the friends of Epstein were and are reasonably believed to possess discoverable information. The undisputed facts show the following with regard to each of the persons identified in Epstein's complaint of improper targets of discovery:

- With regard to Donald Trump, Edwards had sound legal basis for believing Mr. Trump had relevant and discoverable information. *See* Statement of Undisputed Facts filed in support of Edwards' Motion for Summary Judgment.

- With regard to Alan Dershowitz (Harvard Law Professor), Edwards had sound legal basis for believing Mr. Dershowitz had relevant and discoverable information. *See* Statement of Undisputed Facts.

- With regard to former President Bill Clinton, Edwards had sound legal basis for believing former President Clinton had relevant and discoverable information. *See* Statement of Undisputed Facts.

- With regard to former Sony Record executive Tommy Mottola, Edwards was not the attorney that noticed Mr. Mottola's deposition. *See* Statement of Undisputed Facts.

- With regard to illusionist David Copperfield, Edwards had sound legal basis for believing Mr. Copperfield had relevant and discoverable information. *See* Statement of Undisputed Facts.

- With regard to former New Mexico Governor Bill Richardson, Edwards had sound legal basis for naming Former New Mexico Governor Bill Richardson on his witness list. *See* Statement of Undisputed Facts.

The anticipated trial of this lawsuit will require Edwards to testify about the propriety of his litigation decisions and to explain the bases for his good faith belief that each of the identified individuals had relevant information regarding Epstein's serial molestations. The rules of discovery themselves provide that a deposition need only be "reasonably calculated to *lead to* the discovery of admissible evidence." Fla. R. Civ. P. 1.280(b), and all of the challenged depositions clearly met that standard.

Moreover, the discovery that Edwards pursued has to be considered against the backdrop of Epstein's obstructionist tactics. In both this case and all other cases filed against him, Epstein asserted his Fifth Amendment privilege rather than answer any substantive questions. Epstein also helped secure attorneys for his household staff who assisted in the process of recruiting the minor girls, and those staff members in turn also asserted their Fifth Amendment rights rather than explain what happened behind closed doors in Epstein's mansion in West Palm Beach. It is against this backdrop that Edwards followed up on one of the only remaining lines of inquiry open to him: discovery aimed at those of Epstein's friends reasonably believed to have been in a position to corroborate the fact that Epstein was sexually abusing young girls.

In the context of the sexual assault cases that Edwards had filed against Epstein, any act of sexual abuse had undeniable relevance to the case – even acts of abuse Epstein committed against minor girls other than L.M., E.W., or Jane Doe. Both federal and state evidence rules made acts of child abuse against other girls admissible in the plaintiff's case in chief as proof of "modus operandi" or "motive" or "common scheme or plan." The anxiously anticipated trial of this case will present the first full disclosure of the evidence of the extent of Epstein's criminal conduct in explanation of the reason for and the extent of his malice toward Bradley Edwards.

Epstein's repeated invocations of the Fifth Amendment raise adverse inferences against him that leave no possibility that a reasonable factfinder could have ever reached a verdict in his favor. Instead, a reasonable finder of fact could only find that Epstein was a serial molester of children who was being held accountable through legitimate suits brought by Edwards and others on behalf of the minor girls that Epstein victimized.

"[I]t is well-settled that the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them." *Baxter v. Palmigiano,* 425 U.S. 308, 318 (1976); *accord Vasquez v. State*, 777 So.2d 1200, 1203 (Fla. App. 2001). The reason for this rule "is both logical and utilitarian. A party may not trample upon the rights of others and then escape the consequences by invoking a constitutional privilege – at least not in a civil setting." *Fraser v. Security and Inv. Corp.*, 615 So.2d 841, 842 (Fla. 4th Dist. Ct. App. 1993). And, in the proper circumstances, "'Silence is often evidence of the most persuasive character.'" *Fraser v. Security and Inv. Corp.*, 615 So.2d 841, 842 (Fla. 4th Dist. Ct. App. 1993) (*quoting United States ex rel. Bilokumsky v. Tod,* 263 U.S. 149, 153-154 (1923) (Brandeis, J.).

In the circumstances of this case, a reasonable finder of fact would have "evidence of the most persuasive character" from Epstein's repeated refusal to answer questions propounded to him. To provide but a few examples, here are questions that Epstein

refused to answer and the reasonable inference that a reasonable finder of fact would draw:

- Question not answered: "Specifically what are the allegations against you which you contend Mr. Edwards ginned up?" Reasonable inference: No allegations against Epstein were ginned up.

- Question not answered: "Well, which of Mr. Edwards' cases do you contend were fabricated?" Reasonable inference: No cases filed by Edwards against Epstein were fabricated.

- Question not answered: "Did sexual assaults ever take place on a private airplane on which you were a passenger?" Reasonable inference: Epstein was on a private airplane while sexual assaults were taking place.

- Question not answered: "How many minors have you procured for prostitution?" Reasonable inference: Epstein has procured multiple minors for prostitution.

- Question not answered: "Is there anything in L.M.'s Complaint that was filed against you in September of 2008 which you contend to be false?" Reasonable inference: Nothing in L.M.'s complaint filed in September of 2008 was false – i.e., as alleged in L.M.'s complaint, Epstein repeatedly sexually assaulted her while she was a minor and she was entitled to substantial compensatory and punitive damages as a result.

- Question not answered: "I would like to know whether you ever had any physical contact with the person referred to as Jane Doe in that [federal] complaint?" Reasonable inference: Epstein had physical contact with minor Jane Doe as alleged in her federal complaint.

- Question not answered: "Did you ever have any physical contact with E.W.?" Reasonable inference: Epstein had physical contact with minor E.W. as alleged in her complaint.

- Question not answered: "What is the actual value that you contend the claim of E.W. against you has?" Reasonable inference: E.W.'s claim against Epstein had substantial actual value.

Given all of the fatal flaws that infected Epstein's claims against Edwards from the outset and the overwhelming evidence that the motivation behind the filing of those claims was exclusively extortion and malice, Epstein's only hope of avoiding the full

dramatic exposure of his life of perversion is to attempt to hide behind the erroneous interpretation of the litigation privilege. That effort has been rejected repeatedly by the trial court, and there is no reason to anticipate any change in that well-reasoned rejection. In addition, as will be privately explained at mediation, Epstein's day of public reckoning is inevitable.

Sincerely,

JACK SCAROLA
JSX/kar

Cc: Bradley Edwards, Esquire
Jack A. Goldberger, Esquire
Fred Haddad, Esquire
Marc S. Nurik, Esquire
Tonja Haddad Coleman, Esquire