

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendant.

MEMORANDUM IN SUPPORT OF BRADLEY J. EDWARDS'
MOTION FOR PROTECTIVE ORDER

Bradley Edwards has moved for protection against the discovery of personal financial information sought by Jeffrey Epstein in discovery. Epstein supports his broad ranging requests on the grounds that the information sought is reasonably calculated to lead to admissible evidence regarding the economic loss Mr. Edwards claims to have suffered as a consequence of the tortious conduct to which Epstein subjected him. To justify his attempted broad intrusion into Mr. Edwards' economic privacy, the economic privacy of Mr. Edwards' law firm, and the economic privacy of Mr. Edwards' clients, Epstein misrepresents, mischaracterizes, or simply fails to understand the nature of the losses Mr. Edwards is claiming.

THE FACTS

As a direct and proximate consequence of Epstein's abuse of process and malicious prosecution, Bradley Edwards was obliged to divert time and attention away from other matters and to involuntarily focus that time and attention on the defense of Epstein's spurious claims. That involuntary loss of time has a value, and that value has been set in the open marketplace. Clients have set an established price on the value of Mr. Edwards' time by way of the hourly rates they have been willing to pay him for his time, and it is Mr. Edwards' intention to offer evidence concerning his established hourly rates during the period when his time was tortiously taken from him. He does not contend and has no intention of attempting to prove that Epstein's misconduct caused a reduction in Mr. Edwards' income.

It is Mr. Edwards' position that what Mr. Edwards did with the hours that were not stolen from him (including particularly the economic productivity of those hours) has no bearing on the relevant issues in this lawsuit. Mr. Edwards is NOT pursuing a lost wage claim. He is pursuing a stolen time claim as one element of his damages.

THE LAW

“Ordinarily the financial records of a party are not discoverable unless the documents themselves or the status which they evidence is somehow at issue in the case.” *Aspex Eyewear, Inc. v. Ross*, 778 So. 2d 481, 481-82 (Fla. 4th DCA 2001); *see also Capco Props., LLC. v.*

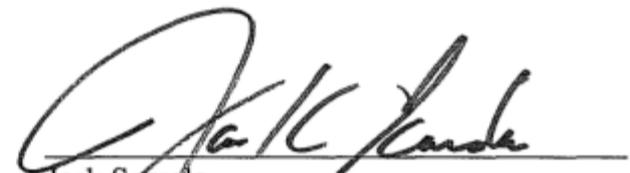
Monterey Gardens of Pinecrest Condo., 982 So. 2d 1211, 1213-14 (Fla. 3d DCA 2008), *review denied*, 1 So. 3d 172 (Fla. 2009). “*Friedman v. Heart Inst. of Port St. Lucie, Inc.*, 863 So. 2d 189, 194 (Fla. 2003) (stating that **the general rule in Florida is that personal financial information is ordinarily discoverable only in aid of execution after judgment**; however where materials sought by a party appear relevant to subject matter of pending action, information is fully discoverable). *See also Gruman v. Bankers Trust Co.*, 379 So. 2d 658, 659 (Fla. 3d DCA 1980) (quashing an order requiring that the defendant respond to discovery requests with respect to financial information, because “without a showing of even potential relevance to the issues in the case, [the discovery requests seek] personal financial information of a type ordinarily discoverable only in aid of execution after judgment has been entered.”).”

In *Capco Properties, LLC v. Monterey Gardens of Pinecrest Condominium*, 982 So. 2d 1211, 1213 (Fla. 3d DCA 2008)(**granting certiorari**), Monterey Gardens had alleged claims against Capco and its principals for fraudulent concealment, fraudulent transfers, negligent nondisclosure, and negligent hiring. The complaint alleged that Capco had made cash distributions to its principals in an effort to render itself insolvent so as to avoid any judgment Monterey Gardens might obtain. Monterey Gardens sought to discover financial information from Capco and its principals, including financial statements, balance sheets, tax returns, bank statements, and cancelled checks.*Id.* The trial court denied Capco's motion for protective order, and Capco and the principals sought certiorari review. **The Third District noted that the items requested “comprise personal financial information that is ordinarily discoverable only in**

aid of execution.” *Id.* at 1214. It also noted that Monterey Gardens' complaint was “lacking sufficient allegations” to establish the relevance of the financial information it was seeking to the counts alleged in the complaint. *Id.* Therefore, the court granted certiorari and quashed the trial court's order because “[Monterey Gardens] has not shown why the discovery of petitioners' financial information is relevant and should be allowed at this time.” *Id.*; *see also O'Barry v. Ocean World, S.A.*, 17 So. 3d 1286, 1287 (Fla. 4th DCA 2009) (**granting certiorari** and quashing an order compelling discovery when Ocean World did not establish that O'Barry's financial information was relevant to the causes of action alleged against him in the complaint); *Spry v. Prof'l Emp'r Plans*, 985 So. 2d 1187, 1188 (Fla. 1st DCA 2008) (**granting certiorari** and quashing order granting motion to compel discovery of plaintiff's financial information when the defendant failed to establish any relevance of that information to the issues in the case)

Epstein bears the burden of establishing the potential relevance of the information he is seeking--a burden that Epstein has not and cannot meet. Mr. Edwards' Motion for Protective Order should be granted.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 3rd day of June, 2013.



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