

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION AG
CASE NO. 502009CA040800XXXXMB
Judge David F. Crow

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

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

Defendants/Counter-Plaintiffs.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
MOTION FOR CLARIFICATION REGARDING DISCOVERY**

Plaintiff/Counter-Defendant JEFFREY EPSTEIN ("Epstein") by and through undersigned counsel, hereby moves for clarification of prior court directives regarding a stay of discovery until the pleadings are at issue. The grounds for this Motion are as follows.

1. Initially on March 30, 2011, this Court entered an Order staying the issuance of subpoenas directed to the Trustee in the RRA bankruptcy. At that time, the court stated it needed the pleadings to be addressed and directed Epstein to file an Amended Complaint.

2. On July 13, 2011 at the hearing on Defendant Bradley Edwards' ("Edwards") Motion to Dismiss the Amended Complaint, this Court stated that it "want[ed] to get a complaint out there that withstands the motion to dismiss before we go into all these privilege issues." (Hr'g Tr. 7/13/2011 at 155). The Court has also expressed the need to get the pleadings at issue before addressing discovery objections and other discovery issues.

3. At the hearing on September 28, 2011 on Edwards' Motion to Dismiss the Second Amended Complaint, this Court reiterated that it wanted to get the issues in the pleadings resolved before addressing discovery issues. The Court also expressed its concern over the viability of Edwards' Counterclaim and wanted it at issue before hearing Edwards' Motion to Add a Claim for Punitive Damages.

4. Edwards has filed an Amended Counterclaim and a Motion to Dismiss is presently pending. Epstein respectfully submits that discovery issues which Edwards presently wishes to pursue need to wait until the Court determines if the Amended Counterclaim withstands Epstein's Motion to Dismiss.

5. Presently, Edwards seeks to re-depose Epstein. At the hearing on July 13, 2011, this matter was deferred pending getting the pleadings to issue. In addition, issues of privilege remain, which as noted above in paragraph 2, the Court stated its desire not to address any privilege matters until a complaint withstands a motion to dismiss. Given the areas of inquiry Edwards wants to make based on the Amended Counterclaim, that needs to be at issue before Epstein's deposition should occur.

6. Edwards wants to depose individuals who Epstein believes do not have information bearing on the issues as presently framed. Those individuals are Ghislaine Maxwell, Howard Rubenstein, Ava Cordero, and Alan Dershowitz, who Edwards claims have information regarding victim issues, which allegedly took place before the present litigation and have no bearing on the present litigation. The relevancy of victim issues and extent of discovery into victim issues need to be deferred until Edwards' Counterclaim withstands a Motion to Dismiss.

7. Now that Edwards' Motion to Dismiss Epstein's Second Amended Complaint has been denied, Epstein wishes to proceed with discovery directed to his Second Amended Complaint, including interrogatories, requests for production, and subpoenas on the Trustee in the RRA bankruptcy for records.

8. Epstein also wants to address some limited privilege issues, especially (1) whether Edwards, in a civil action, can properly invoke a "confidential informant" privilege in response to discovery; and (2) the sufficiency of Edwards' privilege log.

9. Epstein wishes to proceed with discovery of Edwards' alleged damages, but the Motion to Dismiss the Amended Counterclaim is pending, and Epstein is unclear whether those discovery requests should wait until that pleading is at issue.

10. Other potential areas of discovery may exist, and Epstein requests clarification of what can be done now and what should wait until the pleadings are at issue.

11. Epstein represents that this Motion is made in good faith and not for the purposes of delay. Epstein also represents that he has and will attempt to make an effort to resolve this Motion without the need of a hearing.

WHEREFORE, the Plaintiff/Counter-Defendant Jeffrey Epstein requests clarification of this Court's prior directives relating to discovery before the pleadings are at issue.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail and U.S. Mail on this _____ day of November, 2011 to: Jack Scarola, Esq., Searcy Denney Scarola et al., 2139 Palm Beach Lakes Boulevard, West Palm Beach, FL 33409; Jack Alan

Goldberger, Esq., Atterbury, Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401-5012; and Marc S. Nurik, Esq., Law Offices of Marc S. Nurik, One East Broward Boulevard, Suite 700, Fort Lauderdale, FL 33301.

Respectfully submitted,

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