

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

JEFFREY EPSTEIN,

Plaintiff,

Complex Litigation, Fla. R. Civ. Pro. 1201

Case No. 50 2009 CA 040800XXXXMBAG

vs.

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS,
individually, and [REDACTED], individually,

Defendants.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION
FOR PROTECTIVE ORDER TO PRECLUDE OPPOSING COUNSEL AND
DEFENDANT/COUNTER-PLAINTIFF FROM MAKING EXTRA-JUDICIAL
STATEMENTS AND COMMENTARY TO THE MEDIA AND PRESS,
WITH INCORPORATED LEGAL AUTHORITIES**

Plaintiff/Counter-Defendant, JEFFREY EPSTEIN ("EPSTEIN"), by and through his undersigned counsel and pursuant to Rule 1.280(c) of the Florida Rules of Civil Procedure, files this Motion for Protective Order to Preclude Opposing Counsel and Defendant/Counter-Plaintiff From Making Extra-Judicial Statements and Commentary to the Media and Press, and, as grounds therefor, states:

1. On March 11, 2011, the British publication "The Telegraph" published an article entitled "Convicted paedophile Jeffrey Epstein is facing a new criminal investigation and is involved in a civil suit with a lawyer." [Exhibit 1]. The source for much of that Article's information is Jack Scarola, Esq., counsel for the Defendant/Counter-Plaintiff, Bradley J. Edwards.

2. In fact, Mr. Scarola is quoted to have said the following:

- a. "We would be very keen to speak with Prince Andrew, given his relationship with Jeffrey Epstein."
- b. "We want to obtain additional details on the scope of Mr. Epstein's alleged sexual abuse of children — when, where, how frequently and the extent to which it involved the transport of children inside and outside the United States for sex."
- c. "We have reason to believe that Prince Andrew has been in the company of Mr. Epstein while Mr. Epstein has been in the company of under-aged children."

[Exhibit 1].

3. This Court has the undeniable discretion to control and prohibit such extra-judicial commentary in order to insure that Plaintiff/Counter-Defendant EPSTEIN receives a fair trial. *See State ex. rel. Miami Herald Publishing Co. v. McIntosh*, 340 So. 2d 904, 910 (Fla. 1976). Courts in Florida may take steps to protect against pretrial publicity. *See Sheppard v. Maxwell*, 384 U.S. 333, 348, 86 S. Ct. 1507, 16 L. Ed. 2d 600 (1966); *Sentinel Communications Co. v. Watson*, 615 So. 2d 768, 769 (Fla. 5th DCA 1993). The limitations imposed by the court on communications between lawyers and/or litigants and the media are permissible for good cause shown in order to assure a fair trial. *See State ex. rel. Miami Herald Publishing Co. v. McIntosh*, 340 So. 2d 904, 910 (Fla.1976); *see also Florida Freedom Newspapers, Inc. v. McCrary*, 520 So. 2d 32, 35 (Fla. 1988).

4. The Florida Supreme Court in *McIntosh* recognized that restrictions on extra-judicial comment are within the power of the trial judge when it said:

Limitation placed on lawyers, litigants and officials directly affected by court proceedings may be made at the court's discretion.... Muzzling lawyers who may wish to make public statements ... has long been recognized as within the court's inherent power to control professional conduct.

State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So. 2d at 910. Thereafter, the Supreme Court in McCrary stated: “Prohibition on comment is an acceptable alternative to prior restraint.” Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d at 35-36 (order prohibiting public comment on evidence and charges against two defendants by members of state attorney’s office and sheriff’s was proper preventive measure where prejudicial publicity threatened to impair the right to a fair trial).

5. Any communications by Mr. Jack Scarola and Mr. Bradley J. Edwards, as attorneys and officers of the court, with the media and press are also limited by the requirements of Rule 4-3.6 of the Rules Regulating The Florida Bar. Rule 4-3.6, entitled “Trial Publicity,” states:

(a) Prejudicial Extrajudicial Statements Prohibited. A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation of an imminent and substantial detrimental effect on that proceeding.

(b) Statements of Third Parties. A lawyer shall not counsel or assist another person to make such a statement. Counsel shall exercise reasonable care to prevent investigators, employees, or other persons assisting in or associated with a case from making extrajudicial statements that are prohibited under this rule.”

6. Rule 4-3.6 incorporates the “substantial likelihood of material prejudice” standard that the United States Supreme Court found to be a “constitutionally permissible balance between the First Amendment rights of attorneys in pending cases and the state’s interest in fair trials.” Gentile v. State Bar of Nevada, 501 U.S. 1030, 1075, 111 S. Ct. 2720, 2745, 115 L. Ed. 2d 888 (1991).

7. On March ____, 2011, in an effort to conserve this Court's time and resources, EPSTEIN's counsel asked Mr. Scarola to enter into a written agreement guaranteeing that Mr. Scarola, Mr. Edwards, and their respective agents and employees will not engage in any extra-judicial commentary concerning MR. EPSTEIN's alleged sexual abuse of or being with minor females.

8. The undersigned's efforts have **not**, unfortunately, been successful.

WHEREFORE, Plaintiff/Counter-Defendant, JEFFREY EPSTEIN, respectfully requests this Court, pursuant to the foregoing authorities and consistent with 4.3-6 of the Rules Regulating the Florida Bar, to issue a Protective Order barring Mr. Jack Scarola, Defendant/Counter-Plaintiff Mr. Bradley J. Edwards, and their respective agents and employees, from participating, encouraging, assisting, or abetting in the dissemination of any out-of-court publicity or extra-judicial statements and commentary to the media and press concerning MR. EPSTEIN's alleged sexual abuse of or being with minor females.

Respectfully submitted,

By: _____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this ____
day of March, 2011 to:

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The Telegraph

Convicted paedophile Jeffrey Epstein is facing a new criminal investigation and is involved in a civil suit with a lawyer

The Duke of York could be asked to give evidence in two separate legal cases involving Jeffrey Epstein, his paedophile friend, The Daily Telegraph has learnt.



Jeffrey Epstein and Ghislaine Maxwell stayed at Sandringham as guests of the Duke Photo: ALBANPIX/GEOFF PUGH

By Jon Swaine [REDACTED], in Palm Beach, Florida

10:00PM GMT 10 Mar 2011



Lawyers for a Florida attorney who is being sued by Epstein have disclosed that they want to take a statement from the Duke because they believe he may be able to shed fresh light on Epstein's alleged sex offences.

Meanwhile the FBI has indicated that it will reopen its criminal investigation into Epstein after receiving new information. He was convicted in 2008 for soliciting an under-age girl for prostitution. Sources in America have said the FBI could ask the Duke to give evidence as part of the new investigation.



Epstein, 58, was sentenced to 18 months in prison after admitting two sex offences as part of a plea bargain deal. But allegations were made against him by as many as 40 girls, of whom 17 have settled civil claims they brought against the billionaire.

Epstein is himself suing Brad Edwards, a lawyer for several of the girls. Epstein alleges that Mr Edwards was linked to a fraud committed by a former colleague — a claim dismissed by the local bar association — and that his clients' cases against Epstein were therefore invalid.

Further scrutiny on Duke of York over lobbying

(<http://www.telegraph.co.uk/news/uknews/theroyalfamily/8372507/Further-scrutiny-on-Duke-of-York-over-lobbying.html>)

Timeline: the Duke of York's questionable friends

(<http://www.telegraph.co.uk/news/uknews/theroyalfamily/8366227/Timeline-the-Duke-of-Yorks-questionable-friends.html>)

Labour MP: Prince Andrew is 'an embarrassment' (<http://www.telegraph.co.uk/news/newsvideo/uk-politics-video/8366220/Labour-MP-Prince-Andrew-is-an-embarrassment.html>)

Duchess negotiated debt pay-off for several months

(<http://www.telegraph.co.uk/news/uknews/theroyalfamily/8366981/Duchess-of-York-spent-nine-months-negotiating-with-convicted-paedophile-Jeffrey-Epstein-to-pay-off-her-debts.html>)

Mr Edwards, meanwhile, claims Epstein is abusing the legal system by seeking to intimidate other lawyers and girls, and is counter-suing the financier for substantial damages.

He is seeking to prove to the court that Epstein did sexually abuse dozens of children, allegedly at his Florida mansion in most cases, where the Duke enjoyed holidays and massages. Jack Scarola, the lawyer representing Mr Edwards, told The Daily Telegraph: "We would be very keen to speak with Prince Andrew, given his relationship with Jeffrey Epstein.

"We want to obtain additional details on the scope of Mr Epstein's alleged sexual abuse of children — when, where, how frequently and the extent to which it involved the transport of children inside and outside the United States for sex.

"We have reason to believe that Prince Andrew has been in the company of Mr Epstein while Mr Epstein has been in the company of under-aged children."

Asked whether he had any reason to suspect the Duke had been present while under-age girls were abused, Mr Scarola said: "That's not something I can publicly comment on. We have an ongoing investigation and an ongoing prosecution of a civil case. These are not matters of public record and I am restricted in what I can say on the public record."

There is no allegation that the Duke had sexual contact with any of the girls or that he was aware of any wrongdoing by Epstein.

Mr Scarola added: "Deposition testimony has been taken generally concerning Mr Epstein's association with many high-profile people."

Documents filed in the case so far include Epstein's private phone directory — which included numerous contact details for the Duke, along with masseuses and dozens of other prominent friends. They also include flight logs for Epstein's private jet, which detailed a trip the Duke took with him in 2000 and a 1998 meeting between Epstein, the Duchess of York and Princesses Beatrice and Eugenie.

Mr Scarola said he anticipated "significant procedural impediments" in obtaining sworn deposition from the Duke, due to his ability to claim diplomatic immunity. He said he may be forced to turn to international law.

"The Hague Convention specifically outlines procedures that must be followed for the citizen of one country to be compelled to give testimony regarding a case pending in another," he said.

A Buckingham Palace spokesman declined to comment.

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