

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.

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**PLAINTIFF JEFFREY EPSTEIN'S MOTION
FOR PROTECTIVE ORDER RELATING TO HIS DEPOSITION
AND MOTION TO TERMINATE DEPOSITION**

Plaintiff, Jeffrey Epstein, moves the Court for entry of a protective order, pursuant to Florida Rules of Civil Procedure 1.280 (c), to prevent Defendant Bradley J. Edwards ("Edwards") from inquiring into certain areas at the second deposition of the Plaintiff, and pursuant to Florida Rules of Civil Procedure 1.310 (d) to terminate the deposition of the Plaintiff for the reasons set forth below:

1. On December 15, 2011, counsel to Edwards noticed the video deposition of the Plaintiff for January 25, 2012 in West Palm Beach, Florida to update the deposition of the Plaintiff, based on the filing of the Corrected Second Amended Complaint.

2. Edwards took a videotape deposition of Plaintiff on March 17, 2010. Since that time, the Complaint has been amended. The Corrected Second Amended Complaint contains a single count against Edwards for abuse of process (*see* ¶¶29-34). The pending abuse of process

claim alleges *inter alia* that: a) Edwards filed the federal case of *L.M v. Epstein*, Case No. 09-CIV-81092 with 145 counts and knew or should have known, that the highly-charged sexual allegations were false and that this Complaint was prepared solely to be shown to induce investment in the Ponzi scheme and constitutes an abuse of process; and (b) in order to bolster the cases to investors, Edwards engaged in unreasonable, and irrelevant discovery, as specified in ¶32 of the Corrected Second Amended Complaint. Thus, the issues raised by Epstein's Complaint are whether the federal █████ action and specified discovery constitute the improper use of the civil process, whether Edwards had ulterior motives for making improper use of the civil process; and whether such conduct caused damage to Epstein. No issues have been raised by the Plaintiff regarding the truth of allegations of sexual conduct. The Plaintiff has not put his mental state in issue.

3. Much of Epstein's March 17, 2010 deposition was devoted to extensive questioning by Edwards' counsel regarding whether Epstein sexually abused underage women – e.g., were there sexual assaults on an airplane on which he was a passenger (Depo. Epstein at 88); whether nationally-prominent acquaintances engaged in illegal sexual activities (*id.* at 89-95) whether Mr. Epstein ever sexually abused children and how many (*id.* at 95-6); the number of times Mr. Epstein solicited prostitution and the names of minors solicited (*id.* at 102-104); whether Mr. Epstein pled guilty because he was guilty (*id.* at 105-06); the number of times he fondled underage females, engaged in oral sex with them, and engaged in illegal sexual touching (*id.* at 107-110); and whether he had a personal sexual preference for young women (*id.* at 111).

4. On January 25, 2012, the second deposition of Epstein began. After asking some preliminary questions, counsel for Edwards began a series of extensive questioning regarding Epstein's alleged sexual abuse of underage women. More specifically, the following questions were asked:

- a. Whether the Plaintiff has a sexual addiction;
- b. Whether the Plaintiff has been treated for a sexual addiction;
- c. Whether the Plaintiff has a sexual preference for minors;
- d. Whether he has been counseled regarding his sexual preference for minors;
- e. Whether he has acted on this alleged addiction;
- f. Who has treated him for the addition;
- g. Any consultants that he has retained to address his alleged impaired public image as a result of the sex-related charges;
- h. Whether he has solicited minors for sex in the Virgin Islands, in New York, in Arizona, in Paris, at any time or anywhere.

Some of these questions were asked in the first deposition.

5. As soon as a transcript has been received of the deposition, it will be filed as a supplement to this Motion.

6. When this line of questions began, counsel for Epstein objected, contending that the line of questioning was irrelevant, harassing, designed to embarrass the Plaintiff, and not likely to lead to any discoverable evidence. Counsel for Epstein requested that the Plaintiff

refrain from such questions, advised counsel for Edwards that the Plaintiff was there to answer questions related to the Corrected Second Amended Complaint, and requested that the sexually harassing questions be discontinued and that relevant material, non-harassing questions be asked.

7. Counsel for Edwards declined to follow that request and commenced the objectionable questions again. Another opportunity was given to counsel for Edwards to cease that questioning and to ask questions material to the lawsuit. Counsel for Edwards did ask some questions that had some materiality to the lawsuit, but then again went back into the areas of sexual questioning.

8. When that occurred, counsel for Epstein moved to terminate and suspend the deposition in accordance with Florida Rules of Civil Procedure 1.310 (d) and seek relief from this Court.

9. Mr. Scarola, counsel for Edwards, placed on the record that he intended to get into other areas relating to the Plaintiff's finances to support his claim for punitive damages when that motion has not been granted or that allegation has not been permitted by the Court. Mr. Scarola specifically stated that he intended to continue the line of questions regarding sexual information in order to bring a RICO claim against the Plaintiff, when such a claim cannot be brought by Edwards. Therefore, it must be for the basis of some other client, or potential client, or for use in the CVRA case, which is prohibited and not appropriate for discovery in this case. Finally, Mr. Scarola also indicated that it was his intention to continue such a line of sexual questioning with regard to all three lawsuits handled by Edwards for victims who had filed a case against Jeffrey Epstein.

10. Clearly the examination by Mr. Scarola is being conducted in bad faith and to unreasonably annoy, embarrass and oppress the Plaintiff.

11. Counsel for Epstein has a good faith belief that Edwards and his counsel are attempting to utilize the deposition process in this case to advance their cause of action in the Criminal Victim Rights Act claim against the United States in Jane Doe #1 and #2, Case No. 08-80736 (KAM) pending in the United States District Court, Southern District of Florida. In that case, on behalf of two clients of Edwards, Mr. Edwards is bringing a claim against the United States of America to invalidate the Non-Prosecution Agreement entered into between the government and the Plaintiff. Such is an inappropriate use of the discovery process. *Cordis Corp. v. O'Shea*, 988 So. 2d 1163 (Fla. 4th DCA 2008); *Wal-Mart Stores East, L.P. v. Endicott*, – So. 3rd –, 36 Fla. L. Weekly D 2707, 2011 WL 6117220 (Fla. 1st DCA 2011).

12. Edwards should be prohibited from asking any of the foregoing questions, regarding alleged sexual misconduct or related or similar questions at Epstein's second depositions for two independent reasons, either of which is legally sufficient to support the entry of a protective order. First, Edwards' questions regarding Mr. Epstein's alleged sexual abuse of underage women, are intended solely to harass and oppress Epstein, and are not reasonably calculated to lead to the discovery of admissible evidence. Edwards' highly inflammable questions relating to sexual conduct and criminal misconduct are not (and were not) designed to, and would not, provide any information relevant to Epstein's abuse of process claims in the instant case or Edwards' defense of those claims. Numerous questions regarding Epstein's allegedly illegal sexual activities with minors and whether nationally-prominent acquaintances

engaged in illegal sexual activities would clearly not lead to the discovery of evidence relevant to the instant case, and were asked solely to poison the well. Such questions regarding sexual conduct are *not* likely to lead, and are *not* intended to lead, to the discovery of relevant evidence regarding: 1) whether the discovery conducted by Edwards, as alleged in Epstein's pending Complaint, abused process; or 2) whether the federal [REDACTED] action was filed for a legitimate reason, and had a reasonable basis. Epstein's testimony in December, 2011 as to whether he engaged in sexual misconduct is not probative of whether Edwards had a good faith basis for filing the federal [REDACTED] action in July 2009, or whether Edwards had an ulterior motive in filing that action. Any evidence that Edwards could glean from Epstein at a second deposition cannot be used by Edwards to bootstrap his argument that *in July, 2009*, the filing of the federal [REDACTED] action was justifiable, or that the discovery he conducted in *Jane Doe, E.W., etc.* was legitimate. Edwards' litany of questions regarding Epstein's alleged sexual misconduct, and that of his acquaintances, is simply not relevant to any issue in the pending lawsuit for abuse of process.

13. On or about September 16, 2010, Edwards propounded interrogatories requesting that Epstein disclose: 1) the "number of minor females with whom you have had physical contact in the last 10 years . . ." and the circumstances of such contact (Interrog. No. 2); 2) the "number of times in the last 10 years when you have had physical contact with minor females . . ." (*id.*, Interrog. No. 3); 3) the number of times you have witnessed Ghislaine Maxwell engage in sexual activity with minor females (*id.*, Interrog. No. 4); 4) "With regard to the last time you engaged in sexual activity with a minor, state . . . the identity, the acts, the location, a description of the sexual activity (*id.*, Interrog. No. 6); and 5) the name of every "healthcare provider with

whom you have treated or been evaluated for any sexual disorder.” (*Id.*, Interrog. No. 9). Epstein objected to the foregoing interrogatories on the ground that they sought irrelevant information and were propounded for purposes of harassment. On December 1, 2010, this Court entered an Order sustaining Epstein’s objections. Epstein’s objections to Edwards’ Request for Admissions seeking similar information were likewise sustained by this Court. No circumstances have changed so as to render such discovery relevant, whether it is in the form of paper discovery or a second deposition of Epstein. Subsequent Motions for Re-Hearing have also been filed and denied. These Orders will be filed as a Supplement to this Motion.

14. Edwards’ *modus operandi* in asking dozens of sexually explicit questions at Epstein’s 2010 deposition -- and the patently abusive nature of such questions -- is vividly demonstrated by Edwards’ filing of a 42-page graphic, gratuitous and utterly irrelevant Statement of Material Facts. Although the Statement of Material Facts was ostensibly filed in support of Edwards’ Renewed Motion for Summary Judgment, it is readily apparent that it serves no purpose other than to smear Epstein and poison the well, as clearly demonstrated by the fact that although the Statement contains 120 allegedly undisputed “facts”, “the Statement of Undisputed Facts is cited only a few times in Edwards’ renewed summary judgment motion, and then only generally and with no citations to any *specific* “facts” in Edwards’ Statement of Material Facts.

15. Florida Rules of Civil Procedure 1.280 (c) affords the Court discretion to grant protective orders for good cause shown and to protect a party from annoyance, embarrassment, oppression, or undue burden or expense. *See also Logitech Cargo v. JW Perry*, 817 So. 2d 1033 (Fla. 3d DCA 2002). Moreover, the Court may determine the time, place of a deposition, and

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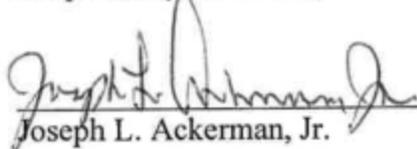
circumstances of how a deposition can occur. Fla. R. Civ. P. 1.280(c)(2). In this case, the Court should prohibit Edwards from posing questions to Epstein regarding his, or his friends', alleged sexual activities with underage women.

16. As a relief, the Plaintiff, Jeffrey Epstein, moves for the entry of a protective order preventing counsel for Edwards from asking any questions relating to sexual allegations, alleged sexual acts, and questions relating to alleged illegal sexual activities.

17. Pursuant to Florida Rules of Civil Procedure 1.380 (a) (4) , Plaintiff Jeffrey Epstein requests the Court to impose sanctions on the Defendant/Counter-Plaintiff, Bradley J. Edwards.

WHEREFORE, for the above stated reasons, Plaintiff Jeffrey Epstein moves for entry of a protective order, for an order suspending the deposition and/or terminating it, for sanctions, and for such other relief as the Court deems proper in the circumstances.

Respectfully submitted,



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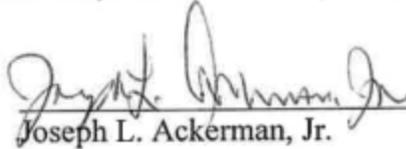
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via electronic mail and U.S. Mail on this 25th day of January, 2012 to: Jack Scarola, Esq., Searcy Denney Scarola Barnhart & Shipley, P.A., 2139 Palm Beach Lakes Blvd., West Palm Beach, FL 33409; Jack Alan Goldberger, Esq., Atterbury, Goldberger & Weiss, P.A., 250 Australian Ave. South, Suite 1400, West Palm Beach, FL 33401-5012; and Marc S. Nurik, Esq., Law Offices of Marc S. Nurik, One East Broward Blvd., Suite 700, Fort Lauderdale, FL 33301.



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