

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

CASE NO.: 502009CA040800 AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

SCOTT ROTHSTEIN, etc., et al.,

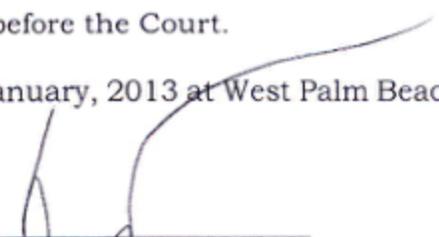
Defendant(s).

ORDER ON COUNTER-DEFENDANT'S MOTION FOR PROTECTIVE ORDER

THIS CAUSE came before the Court upon the Counter-Defendant's Motion for Protective Order, and the Court having heard argument of counsel and being otherwise fully advised in the premises, it is hereby

CONSIDERED, ORDERED AND ADJUDGED that the Motion is denied. However, any documents or information produced in response to the discovery shall be produced under a confidentiality order. The confidentiality order shall provide that the documents will not be filed in the public record without further order of court, will not be disclosed to third parties to this litigation (except experts who agree to be bound by the terms of this confidentiality order), shall not be published or disseminated to any third parties, and shall not be utilized in any other proceeding other than the current litigation. Furthermore, any documents produced shall be returned to the Counter-Defendant at the conclusion of this litigation. If the parties cannot agree on the form and content of the confidentiality order, they should schedule a hearing before the Court.

DONE AND ORDERED this 20th day of January, 2013 at West Palm Beach,
Palm Beach County, Florida.



DAVID F. CROW
CIRCUIT COURT JUDGE

Copy furnished:
See attached list.

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,

Defendants.

TRANSCRIPT OF HEARING PROCEEDINGS

DATE TAKEN: January 28, 2013
TIME: 8:45 a.m.
PLACE: Palm Beach County Courthouse
205 North Dixie Highway
West Palm Beach, Florida
BEFORE: DAVID F. CROW, Circuit Judge

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were stenographically reported by:

Tamara A. Jenkins, RMR, CRR, CLR, FPR
PHIPPS REPORTING, INC.
1615 Forum Place, Suite 500
West Palm Beach, FL 33401

www.PhippsReporting.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES :

On behalf of Plaintiff:

TONJA HADDAD, P.A.
315 SE 17th Street
Suite 301
Ft. Lauderdale, FL 33301
([REDACTED])
BY: TONJA HADDAD COLEMAN, ESQ.
[REDACTED]

On behalf of Defendant Edwards:

SEARCY DENNEY SCAROLA
BARNHART & SHIPLEY, PA
2139 Palm Beach Lakes Blvd
P.O. Drawer 3626
West Palm Beach, FL 33402-3626
([REDACTED])
BY: JACK SCAROLA, ESQ.
[REDACTED]

1 The following proceedings began at 8:52 a.m.:

2 **THE CLERK:** Epstein versus Rothstein.

3 **THE COURT:** Good morning. Let me just ask
4 before we start, I saw some notice of appeal
5 come across my desk. I didn't look at what it
6 was.

7 Do I still have jurisdiction?

8 **MR. SCAROLA:** Yes, sir, you do.

9 **MS. HADDAD:** Yes, Your Honor.

10 **MR. SCAROLA:** There's a petition for writ.

11 **THE COURT:** Sorry. Whatever it is it
12 doesn't matter.

13 **MR. SCAROLA:** Yes. Thank you.

14 **THE COURT:** What have we got here?

15 **MS. HADDAD:** Judge, Tonja Haddad on behalf
16 of Jeffrey Epstein. We have filed a motion for
17 protective order with respect to the net worth
18 discovery submission that Mr. Edwards served
19 upon my client. I'm not sure if this can be
20 done on your uniform motion calendar, but if we
21 can use the ten minutes we are willing to try.

22 **THE COURT:** Let me back up to get my head
23 straight again. Did I allow the punitive
24 damage claim?

25 **MS. HADDAD:** What happened, Judge, on

1 December 18th you entered an order granting
2 Mr. Edwards' second amended claim and punitive
3 damages, which is the subject of the writ
4 that's up for the Fourth.

5 **THE COURT:** Okay.

6 **MS. HADDAD:** They've not exercised their
7 decision yet with respect to whether or not
8 they will take it.

9 On December 21st Mr. Edwards had not yet
10 filed his amended complaint but served his
11 financial net worth discovery upon Mr. Epstein.

12 Thereafter, we filed this motion for
13 protective order and incorporated the
14 memorandum of law which is quite voluminous,
15 which we did get.

16 **THE COURT:** The basis for your motion for
17 protective order is what?

18 **MS. HADDAD:** There are three reasons,
19 Judge. First and foremost --

20 **THE COURT:** List them for me
21 simplistically.

22 **MS. HADDAD:** Very simple. First and
23 foremost is the fact that there are so many
24 collateral litigations between these parties,
25 and the fact that Mr. Edwards continues

1 trolling for clients for whom he can sue on
2 behalf of them Mr. Epstein.

3 And currently pending in Federal court, as
4 everyone talks about as soon as we come in, is
5 a case where Mr. Edwards is seeking a lawsuit
6 against the United States Government to
7 overturn a nonprosecution agreement, which was
8 the underlying issue and the basis where the
9 civil suits that Mr. Edwards brought against
10 Mr. Epstein on behalf of his clients.

11 The first reason that we are seeking a
12 protective order is because of the fact that
13 Mr. Edwards is still actively on his firm
14 website, on his firm's Facebook page --
15 everything has been provided to Your Honor and
16 printed out -- is actively seeking potential
17 plaintiffs on his behalf that he can sue
18 Mr. Epstein. We feel this information could be
19 used in that case.

20 In the case of collateral litigation is
21 very serious. We provided the court with case
22 law right on point and coming out of the Fourth
23 DCA where there are special situations such as
24 this.

25 Second reason is the history that

1 Mr. Edwards has of using documents or discovery
2 found in one case involving these two parties
3 in other cases. We've also provided that
4 information to the court both in our motion and
5 as exhibits attached to our motion.

6 The third reason is the systematic pattern
7 in the discovery between these two parties
8 which granted. In the short time I've been in
9 this case I've seen it first hand. Documents I
10 have drafted and given to Mr. Edwards' counsel
11 have somehow become attached as exhibits in
12 other litigation between the parties and used.
13 So there is an absolute pattern of using these
14 documents for inappropriate reasons.

15 And the fourth reason is that in
16 litigation between these two parties
17 Mr. Edwards has already disregarded procedural
18 safeguards that have been put in place by the
19 court -- not you, but in collateral litigation.
20 There were agreements or stipulations not to
21 use information for other purposes or to
22 preclude the information from being leaked to
23 the press. And leaking to the press is the
24 most important of the arguments that we're
25 putting forth to the court today.

1 Mr. Edwards has a systematic pattern of
2 not only using information with respect to
3 Mr. Epstein on his firm website, on his firm
4 Facebook, but also as this court remembers, it
5 is the 171 entry privileged log, the
6 communications with the press are unbelievable.
7 When Mr. Epstein was deposed by Mr. Edwards in
8 a videotaped deposition, that videotaped
9 deposition was leaked to the press.

10 Mr. Epstein's --

11 **THE COURT:** There's been no order of this
12 court limiting contact by the press, somehow
13 preventing the press from -- or from anybody
14 talking to the press, is there?

15 **MS. HADDAD:** It was not in this case,
16 Judge.

17 **THE COURT:** I'm talking about in this
18 case. There's been no such order.

19 **MS. HADDAD:** Right.

20 **THE COURT:** Okay.

21 **MS. HADDAD:** Our concern is this.
22 We've -- as an aside, as a nonlegal argument
23 here we've tried to speak with counsel for
24 Mr. Edwards and offer some less intrusive
25 means. You can see by my client's affidavit he

1 is willing to stipulate to his net worth. We
2 offered to turn documents over to an
3 independent third party to verify his net
4 worth. Or if the court is willing to consider
5 alternatively, perhaps we can put the documents
6 before you in an in camera review for you to be
7 satisfied of his net worth. But the --

8 **THE COURT:** That's the least favorable of
9 the things that I would like to do, but I'll do
10 whatever is necessary. I understand.

11 **MS. HADDAD:** Our concern basically is that
12 the systematic pattern of embarrassment or
13 harassment and oppressive nature that's gone on
14 with respect to these parties with respect to
15 discovery, turning over such personal
16 information that could be used in active
17 litigation in other cases that are occurring at
18 this time, as well as collateral litigation is
19 most concerning.

20 And just briefly, you can read this, I
21 will point the court to a case upon which we
22 rely.

23 **THE COURT:** Just give me the name of the
24 case.

25 **MS. HADDAD:** Certainly. The name of the

1 case is Thomas John Woodward also known as Tom
2 Jones, the singer, versus Berkery. The
3 citation is -- wow --

4 **THE COURT:** Is this in your memorandum?

5 **MS. HADDAD:** It is. 714 So.2d 1027. And
6 the court -- the Fourth District Court of
7 Appeal --

8 **THE COURT:** I can read the case. I really
9 need to -- you know, I have a whole courtroom
10 of people. I'm not going to go off the top of
11 my head. I can read your memorandum and read
12 the cases. I understand your position.

13 **MS. HADDAD:** Okay. We would just say due
14 to the unique nature of this case and the
15 salacious and sensational facts as presented to
16 the press throughout this case and allegation
17 of other famous parties being involved, we feel
18 that this discovery could be embarrassing and
19 harassing, and that the protective order should
20 be granted.

21 And we alternatively have tried to and are
22 willing to submit to nonintrusive means through
23 which this information could be provided to
24 Mr. Edwards.

25 **THE COURT:** Yes, sir.

1 **MR. SCAROLA:** The Tom Jones case is a case
2 in which the Fourth DCA ruled, "The discovery
3 of financial worth information that is not
4 material to any issue reasonably likely to be
5 contested and sought primarily to embarrass,
6 and which included irrelevant details, was
7 inappropriate."

8 And the appellate Court said that a
9 confidentiality order ought to have been
10 issued.

11 We have agreed that we will keep
12 information regarding Mr. Epstein's finances
13 confidential. We have offered to enter into a
14 confidentiality order which restricts the use
15 of this information to this litigation.

16 Your Honor has appropriately granted our
17 motion to assert a claim for punitive damages.
18 The privacy protection that is afforded under
19 the statute has been complied with in this
20 case.

21 This is information that we are entitled
22 to. We are not obliged, respectfully, to rely
23 upon the Court's assessment of the accuracy or
24 completeness of the information provided nor to
25 rely upon some "independent third party." This

1 is information that we are entitled to have and
2 we are entitled to assess.

3 There have been all sorts of vague
4 allegations made about misconduct of a variety
5 of natures that have been allegedly engaged in
6 by Mr. Edwards in the past. They have nothing
7 whatso -- first of all, those representations I
8 will tell Your Honor are not accurate. We
9 contest them. We do not concede them.

10 As counsel has acknowledged these are
11 matters that apparently occurred in some other
12 case, not in this case. They could and should
13 have been addressed in the context of those
14 claims. And as far as I know, Mr. Edwards has
15 never been found to have engaged in any
16 misconduct in the vigorous prosecution of his
17 claims against Mr. Epstein.

18 This is simply an effort to try to delay
19 the discovery that we are entitled to having
20 satisfied the statutory obligations to assert a
21 claim for punitive damages, and this motion
22 should be denied.

23 Thank you very much, Your Honor.

24 **THE COURT:** Briefly, ma'am.

25 **MS. HADDAD:** Judge, I would just -- with

1 respect to what Mr. Scarola just said regarding
2 Mr. Edwards' conduct, all of the pertinent
3 information proving that the previous entered
4 court orders, which again arguably were not by
5 this court, but it was -- it's all very
6 specifically spelled out -- include the proper
7 documentation to back up what we've alleged.

8 **THE COURT:** Well, it seems to me that, you
9 know -- I mean, he's entitled or at least the
10 defendant is entitled under my ruling, unless
11 the Fourth overrules me, to the financial
12 information. And it would seem the proper
13 procedure would be to limit the access or
14 dissemination of the information to anybody
15 other than the parties to this lawsuit, and it
16 can't be used for any other purposes. And if
17 they do violate that order, there are sanctions
18 available through this Court to do it.

19 But how can I not give him information
20 that he's entitled to have?

21 **MS. HADDAD:** Because of the unique
22 situation and circumstances. If you look at
23 the cases that are cited --

24 **THE COURT:** I can control this litigation.
25 Can't I enter orders in this case that says

1 that if do you this you're going to be in
2 contempt of court? I can either do all kinds
3 of things that are really nasty, especially to
4 a lawyer. I hold a lawyer in contempt of
5 court, he is going to be in front of the bar.

6 **MS. HADDAD:** Yes. But this type of
7 cat-out-of-the-bag discovery, as it's
8 referenced by the Florida Supreme Court, is not
9 something that can be adequately remedied on
10 appeal or anything else if this is violated.
11 The financial information would already be out
12 there. And based upon the --

13 **THE COURT:** First of all, I see no case
14 law that says that once a matter becomes
15 relevant it's a matter of relevance. I mean,
16 it's public record once I determine punitive
17 damage -- he is entitled to punitive damages or
18 at least complete with damages. The discovery
19 is a matter of public record, is it snot?

20 **MS. HADDAD:** I --

21 **THE COURT:** No matter whether you have a
22 hundred dollar net worth or 10 billion net
23 worth. I mean -- I mean, there's nothing in
24 the law that says -- as I understand the
25 constitution and the statute, it says these are

1 private and privileged and confidential
2 information protected by the right of privacy.
3 But once there's a punitive damage claim that
4 right of privacy goes out the window, doesn't
5 it?

6 **MS. HADDAD:** In essence, yes, Judge. But
7 there's other case law that's ferreted out that
8 constitutional right of privacy, that it's out
9 the window, and has permitted the courts to
10 assess on a case-by-case basis whether or not
11 some or all of those constitutional rights
12 should remain intact.

13 **THE COURT:** In other words, I should
14 restrict access to it?

15 **MS. HADDAD:** There is case law supporting
16 our position, yes, Judge, there is.

17 **THE COURT:** Okay. I'm going to have to
18 read the cases because this is a little unique.
19 I've never had this come up before on punitive
20 damages. I'll take a look at it and get you an
21 order out in the next couple of days.

22 **MR. SCAROLA:** In the order that the Court
23 enters -- assuming that we are going to be
24 permitted to discovery, the discovery is
25 already past due. I would ask Your Honor to

1 include a time frame for response.

2 **THE COURT:** I will. Thank you.

3 **MR. SCAROLA:** Thank you very much.

4 (Proceedings concluded at 9:10 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 COURT CERTIFICATE
2
3

4 STATE OF FLORIDA

5 COUNTY OF PALM BEACH
6

7 I, TAMARA A. JENKINS, RMR, CRR, CLR, FPR,
8 certify that I was authorized to and did
9 stenographically report the foregoing
10 proceedings; and that the transcript, pages 1
11 through 16, is a true and complete record of my
12 stenographic notes.
13

14 Dated this 29 day of January, 2013.



15
16 *Tamara A. Jenkins*
17 TAMARA A. JENKINS, RMR, CRR, CLR, FPR
18
19
20
21
22
23
24
25