

JEFFREY EPSTEIN,
Plaintiff,

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

vs.

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

CASE NO. 502009CA040800XXXXMBAG

Defendants.
_____ /

**PLAINTIFF'S MOTION TO COMPEL DISCOVERY RESPONSES
AND FOR SANCTIONS**

Plaintiff Jeffrey Epstein, by and through his undersigned counsel and pursuant to Rule 1.380 of the *Florida Rules of Civil Procedure*, hereby moves this Court to enter an order compelling the Defendant Bradley Edwards, yet again, to provide responses to Plaintiff's Request for Production. Plaintiff likewise requests that this Court order sanctions against Defendant Edwards for his direct and flagrant disregard of this Court's previous Order dated April 10, 2012. In support thereof, Plaintiff states:

INTRODUCTION

On April 12, 2010, Plaintiff Epstein served Defendant Edwards with his initial Request for Production, including therein a request for:

[a]ll e-mails, data, correspondence, and similar documents dated April 1, 2008 through August 1, 2010 by and between Bradley J. Edwards. Scott W. Rothstein, Marc, Nurik, Cara Holmes, Mike Fisten and any on of he following regarding or mentioning Jeffrey Epstein in any way: (a) the U.S. Attorney's Office, (b) the State Attorney's Office, (c) the Federal Bureau of Investigation, (d) [REDACTED] and (e) any other news employees or reporters.

Edwards responded thereto by objecting, specifically claiming therein that any “communications to or from investigators [] is protected by the work-product and/or attorney-client privilege.” On March 9, 2012, Plaintiff Epstein served upon Defendant Edwards a Motion to Compel and to Amend and Lift a Protective Order, specifically seeking therein responses to the afore-referenced request. A true and correct copy of Plaintiff’s Motion is attached hereto as “Exhibit A.” On April 10, 2012, this Court entered an Order on Plaintiff’s Motion, stating that “within twenty (20) days of the date of this Order, the Defendant EDWARDS shall produce any non-privileged documents as identified in Paragraph 13 of EDWARDS’ [sic] Motion to Compel and Amend Protective Order.” *See Order entered April 10, 2012*, a true and correct copy of which is attached hereto as “Exhibit B.” The Order further avowed that “[n]othing in this Order shall constitute any waiver or ruling upon any privilege that may apply to said documents and the Defendant EDWARDS and/or others may file an objection to any such documentation on any privilege grounds and ***shall file a privilege log specifically identifying such documents.***” *See Exhibit B* (emphasis added). Accordingly, all responses were due on or before April 30, 2012.

On May 9, 2012, Plaintiff received Defendant Edwards’ untimely response to the afore-referenced Request to Produce. A perfunctory review of the items provided by Edwards establishes that his response is incomplete and deficient. Edwards’ response contains nothing more than partial electronic communications between himself and three or four of the countless reporters with whom he had communications during the relevant time period. Further, Defendant’s response irrefutably corroborates that he wholly

disregarded this Court's Order. Accordingly, Defendant Edwards has failed to comply with this Court's Order to produce the items responsive to Plaintiff's Request to Produce, as well as any opportunity afforded to him therein to provide any privilege log with respect to the afore-referenced request. As such, and as demonstrated more fully below, Plaintiff's requested order is warranted.

MEMORANDUM OF LAW

This Court has the authority to rule on this Motion without Oral Argument. *See First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass'n*, 545 So. 2d 502 (Fla. 4th DCA 1989). Defendant Edwards was Ordered by this Court to provide

[a]ll e-mails, data, correspondence, and similar documents dated April 1, 2008 through August 1, 2010 by and between Bradley J. Edwards, Scott W. Rothstein, Marc, Nurik, Cara Holmes, Mike Fisten and any on of he following regarding or mentioning Jeffrey Epstein in any way: (a) the U.S. Attorney's Office, (b) the State Attorney's Office, (c) the Federal Bureau of Investigation, (d) [REDACTED] and (e) any other news employees or reporters.

See Exhibit A. This Court also permitted Defendant Edwards to assert any privilege grounds and "file a privilege log specifically identifying such documents." *See* Exhibit B. Edwards not only failed to provide the items requested, but also failed to provide a privilege log as mandated. It is well-settled law that if a party alleges that information requested from it is protected by privilege, then a privilege log must be prepared and attached to the response, **or the privilege is waived**. *See TIG Insurance Corp. of America v. Johnson*, 799 So. 2d 339 (Fla. 4th DCA 2001) (stating that failure to provide a reason for privilege and prepare a privilege log constitutes waiver of the privilege) (emphasis added).

Here, Edwards fails to either respond to the Request to Produce or assert any privilege as Court ordered. A court has the inherent power to implement and enforce effective judicial proceedings pursuant to pretrial rules. As such, when a party fails to comply with a pretrial order, a court has broad discretion in determining sanctions. *First Republic Corp. of America v. Hayes*, 431 So. 2d 624 (Fla. 3d DCA 1983). Rule 1.380(3) of the *Florida Rules of Civil Procedure* provides that “[f]or purposes of this subdivision an evasive or incomplete answer shall be treated as a failure to answer.” FLA. R.CIV. P. 1.380(3). This Rule likewise governs failure to comply with a prior court order and mandates that such failure “may be considered a contempt of the court.” FLA. R.CIV. P. 1.380(b). Accordingly, Defendant Edwards’ inapposite and patent disregard for this Court’s Order mandates sanctions.

Finally, Plaintiff certifies that he “in good faith, has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action.” FLA. R.CIV. P. 1.380. A true and correct copy of the correspondence sent to Defendant Edwards regarding this Motion is attached hereto as “Exhibit C.” Pursuant to Rule 1.380 of the *Florida Rules of Civil Procedure*, Epstein is entitled to reasonable attorney’s fees necessitated by Defendant’s flagrant disregard of both this Court’s Order and the afore-referenced Rules of Civil Procedure.

CONCLUSION

Accordingly, for all of the reasons delineated above and in reliance upon the applicable law cited herein, Plaintiff Jeffrey Epstein respectfully requests that this Court, yet again, Order Defendant Bradley Edwards to respond in full to Plaintiff’s Request to

Produce, award attorney's fees as sanctions, and such other and further relief as this Court deems proper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed on the attached service list, via facsimile and US Mail, this May 15, 2012.

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