

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendants.

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

CASE NO.
502009CA040800XXXXMBAG

**PLAINTIFF COUNTER-DEFENDANT'S MOTION TO STRIKE
DEFENDANT/COUNTER-PLAINTIFF BRADLEY EDWARDS'
MOTION TO COMPEL PROPER ANSWER OR TO DEEM
UNANSWERED ALLEGATIONS ADMITTED**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein" or "Plaintiff"), by and through his undersigned counsel and pursuant to Rule 1.110(c) of the *Florida Rules of Civil Procedure*, hereby moves this Court to enter an order striking the Defendant/Counter-Plaintiff Bradley Edwards' ("Edwards" or "Defendant") Motion to Compel Proper Answer [sic] or to Deem Unanswered Allegations Admitted. In support thereof, Plaintiff states:

INTRODUCTION

On May 21, 2012, Defendant/Counter-Plaintiff Bradley Edwards filed his Third Amended Counterclaim against Epstein. On June 11, 2012, Epstein filed his Answer and Affirmative Defenses thereto. On June 18, 2012, Edwards filed his Motion to Compel Proper Answer [sic] or Deem Unanswered Allegations Admitted. Edwards provides neither supporting case law nor rules of procedure in support of his Motion, because his request is in direct contravention with the law. Edwards further fails to attach a copy of the

documents he references are attached in his Motion. As such, and as demonstrated more fully below, Edwards' Motion should be Stricken.

MEMORANDUM OF LAW

It is well-established that a party must respond to **properly drafted averments** "in short and plain terms," as required by Rule 1.110(c) of the *Florida Rules of Civil Procedure*, by "admit[ting] or deny[ing] the averments . . . where each such "[d]enial... fairly meets the substance of the averments denied." 1.110(c) FLA. R. CIV. P.; *See also Sobel v. Jefferson Stores, Inc.*, 459 So. 2d 433 (Fla. 3d DCA 1984). In the case at hand, the Paragraphs in question in Defendant's Third Amended Counterclaim; to wit: Paragraphs 5, 11, 12 and 27, were inartfully drafted and in direct contravention with the requisites of pleading as delineated in Rule 1.110 of the *Florida Rules of Civil Procedure*. Rule 1.110 mandates that that a pleading contain only "**a short and plain statement of the ultimate facts**" upon which the pleader relies in his claim. 1.110(c) FLA. R. CIV. P. (emphasis added). Edwards, by incorporating his personal feelings and spurious editorializations in his run-on paragraphs, left Epstein in a position such that he was only able to engage in supposition and conjecture as to what Edwards was attempting to submit as fact such as to warrant a response from Plaintiff.

First, Paragraph 5 of Defendant's Third Amended Counterclaim reads:

EPSTEIN was sued civilly by a large number of his victims. Many of the cases against him have been settled, and upon information and belief, federal law enforcement agencies continue to investigate additional allegations of EPSTEIN'S serial abuse and molestation of children; others remain pending. As a consequence, EPSTEIN continues to face the potential of further criminal prosecution and huge civil judgments for both compensatory and punitive damages

in favor of many victims of his depraved criminal exploitation of children including victims represented by EDWARDS.

To which Plaintiff provided the following response:

Epstein admits that he was a party to civil actions brought on behalf of purported victims. The remaining allegations in Paragraph 5 contain annotations that are wholly inapposite, unprincipled, needlessly inflammatory, and serve no purpose other than to bolster Counter-Plaintiff's allegations and as such no response is warranted.

Plaintiff's response complies with Rule 1.110(c) of the *Florida Rules of Civil Procedure* because Plaintiff admits only that part of the averment that is a short and plain statement of the ultimate facts; namely that "EPSTEIN was sued civilly by a large number of his victims." The rest of the Paragraph lists alleged or purported ongoing criminal investigations *upon Edwards' own "information and belief"* (he cannot even "admit" it himself), and that because of this possible, unverified investigation, "EPSTEIN **continues to face the potential of further criminal prosecution and huge civil judgments** for both compensatory and punitive damages **in favor of many victims of his depraved criminal exploitation of children** including victims represented by EDWARDS." Plaintiff is unable to respond within the guidelines of the Rule with respect to those statements contained above that, according to Edwards himself, are unverified. As such, the remaining allegations are argumentative, mere conjecture, and speculation; they are not "facts" to which Epstein can respond. *See also Messana v. Maule Industries*, 50 So. 2d 874 (1951) (Complainant must state a case showing a legal liability, and must **plead factual matter sufficient to apprise his adversary of what he is called upon to answer.**) Accordingly,

Epstein is unable to admit or deny the inflammatory, non-factual, argumentative allegations, and as such properly responded to same.

Next, Paragraphs 11 and Paragraph 27 of Defendant's Third Amended Counterclaim both state:

The claims filed by EPSTEIN against EDWARDS included the following:

- a. Violation of F.S. §§772.101, *et. seq.* – Florida Civil Remedies for Criminal Practices Act;
- b. Florida RICO – “Racketeer Influenced and Corrupt Organization Act” pursuant to F.S. §§895.01, *et. seq.*
- c. Abuse of process;
- d. Fraud;
- e. Conspiracy to commit fraud.

To which the Plaintiff provided the following response:

Epstein admits that some of the claims initially filed by him against Edwards are delineated in Paragraph 11 [Paragraph 27] and its subparts, but submits that the Initial Complaint speaks for itself and that to the extent that Edwards has inaccurately summarized or interpreted any provision thereof in Paragraph 11 [Paragraph 27] of his Counterclaim, Epstein denies the allegations. (*footnote omitted*)

Plaintiff's response complies with Rule 1.110(c) of the *Florida Rules of Civil Procedure* in that Plaintiff responds in the affirmative to that part of the averment that is a short and plain statement of the ultimate facts; to wit: admitting that his first Complaint contained the referenced causes of action. Plaintiff further stated that where Defendant has quoted directly from the record in this case, the record speaks for itself. *See Pohl v. First Nat. Bar and Grill, Inc.*, 418 So. 2d 1111 (1982) (stating that when there is a dispute over a document, “the document speaks for itself.”). Had Edwards attached a copy of the Initial

Complaint to his Third Amended Counterclaim as required by the applicable Rule, it could have been incorporated into the Counterclaim.

Finally, Paragraph 12 of Defendant's Third Amended Counterclaim reads:

EPSTEIN, in his Complaint, directly alleged that EDWARDS was a knowing participant in a civil theft and criminal enterprise when EPSTEIN was well aware that there was absolutely no evidence whatsoever to support such false assertions. Indeed, his Complaint was replete with speculation, conjecture, and innuendo and was entirely devoid of factual support for his spurious allegations. Indicative of his total disregard for the lack of any predicate for his claims, EPSTEIN ignored the statutory requirement for written notice prior to the initiation of a civil theft claim.

To which the Plaintiff provided the following response:

Epstein admits that some of the claims initially filed by him against Edwards are delineated in Paragraph 12 and its subparts, but submits that the Initial Complaint speaks for itself and that to the extent that Edwards has inaccurately summarized or interpreted any provision thereof in Paragraph 12 of his Counterclaim, Epstein denies the allegations. Epstein denies the remaining allegations contained therein and demands strict proof thereof.

Plaintiff's response is in compliance with Rule 1.110(c) of the *Florida Rules of Civil Procedure* to the extent that Plaintiff responds to only that part of the averment that is a short and plain statement of the ultimate facts; to wit: admitting that some of the claims delineated in Paragraph 12 were filed in the Initial Complaint, and denying the remaining allegations that contain, yet again, Edwards' personal feelings and spurious editorializations, to which there is no response. Further, it is entirely proper for Plaintiff to assert that where Defendant has quoted directly from Plaintiff's Complaint, the document speaks for itself. *Id.*

Finally, Defendant's contention that Plaintiff's responses to those parts of the averments that Edwards took beyond the bounds permitted by Rule 1.110(b) of the *Florida Rules of Civil Procedure* should be deemed admitted runs afoul of the established case law and the letter and spirit of the *Florida Rules of Civil Procedure*. Edwards drafted the Counterclaim, and despite it being his fourth draft, was unable to provide a short and plain statement of *facts* to which Epstein could formulate a proper response. Epstein responded to the actual *facts* and submits that there is neither law nor a rule to support that he could respond otherwise. In responding to a Complaint, one cannot "assume" what the pleader means; much less assume allegations or interpretations of the pleader's conjecture.

CONCLUSION

Wherefore, and for all of the reasons delineated above, Plaintiff Jeffrey Epstein moves this Court to strike Defendant Bradley Edwards' Motion to Compel Proper Answer of to Deem Unanswered Allegations Admitted and whatever other remedy deemed just and proper.



Tonja Haddad Coleman, Esq.
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WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via electronic and US Mail, this June 27, 2012.

Jack Scarola, Esq.
Searcy Denney Scarola et al.

[REDACTED]

Jack Goldberger, Esq.
Atterbury, Goldberger, & Weiss, PA

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Marc Nurik, Esq.

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Bradley J. Edwards, Esq.
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