

JEFFREY EPSTEIN,

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

CASE NO. 502009CA040800XXXXMBAG

Plaintiff,

vs.

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

Defendants.

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**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S  
MOTION TO STRIKE DEFENDANT/COUNTER-PLAINTIFF BRADLEY EDWARDS'S  
POST-JUDGMENT NOTICE OF TAKING DEPOSITION  
AND REQUESTS FOR PRODUCTION AND FOR SANCTIONS**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.280 of the *Florida Rules of Civil Procedure*, hereby moves this Court to enter an order striking Defendant/Counter-Plaintiff Bradley Edwards's January 21, 2015 Notice of Taking Deposition (videotaped) of Jeffrey Epstein and Edwards's January 21, 2015 Requests for Production to Epstein. Epstein further requests that this Court award Epstein his

attorneys' fees as sanctions against Edwards for filing these impermissible pleadings. In support thereof, Epstein states:

### **INTRODUCTION**

On May 19, 2014, this Court granted Epstein's Motion for Summary Judgment as to both counts of Edwards's Complaint. This Court entered Final Judgment in favor of Epstein on May 27, 2014. On June 2, 2014, Epstein filed his Motion for Costs and Attorneys' Fees pursuant to §768.79 of the *Florida Statutes* and Rule 1.442 of the *Florida Rules of Civil Procedure*. This Motion is still pending, but all issues were fully briefed by the parties as requested by this Court as of January 12, 2015.

Notwithstanding that Final Judgment was entered in this matter, Edwards served a Notice of Taking Deposition (videotaped) of Jeffrey Epstein and a Request for Production to Epstein on January 21, 2015. Epstein has brought this violation to Edwards's attention in an effort to remediate the situation without Court intervention; to no avail. As demonstrated more fully below, Edwards's flagrant disregard of this Court's entry of a Final Judgment in favor of Epstein, coupled with his deliberate refusal to abide by the applicable Rules of Civil Procedure, mandates the implementation of the remedies permitted by law as set forth by the Florida Supreme Court and in *Florida Rules of Civil Procedure* governing sanctions.

### **MEMORANDUM OF LAW**

It is well settled law that "[a]side from Rule 1.290(b), which is designed to preserve testimony, and Rule 1.560 governing depositions in aid of execution, discovery under the Florida Rules of Civil Procedure is limited to 'pending actions.'" *Berger v. Riverwind Parking, LLP*, 836 So. 2d 1073, 1075 (Fla. 5th DCA 2003); FLA. R.CIV. P 1.280(b). Likewise, "once the final judgment is entered, the need for discovery is over." *Id.* The *Berger* case is illustrative. In

*Berger*, the trial court granted the defendant’s motion for summary judgment and entered final judgment. The plaintiffs appealed. *Berger*, 836 So. 2d at 1073. Thereafter, and while the appeal was pending, the trial court entered discovery order compelling the plaintiff homeowners to respond to interrogatories propounded by defendants. *Id.* The homeowners petitioned for certiorari. The Fifth District Court of Appeal held that because the homeowners’ action was no longer “pending,” entry of the discovery order was improper. In so deciding, the Court avowed: “[w]e grant the writ because this discovery is being conducted after entry of final judgment. The problem with the trial court’s discovery order is that, at the trial level, the judicial labor has ended. Unless and until overturned on appeal, there was nothing in this case for which discovery could be had.” *Id.*

Similarly, in the case at hand, Edwards is impermissibly engaging in post-judgment discovery practice; seeking both a deposition of Epstein and responses to Requests for Production. Neither of the exceptions as proscribed in Rule 1.290(b), preservation of testimony, or Rule 1.560, governing depositions in aid of execution, is present in the instant case, mandating that Edwards’s Notice of Taking Deposition and Requests for Production be stricken<sup>1</sup>.

Further, counsel for Epstein informed counsel for Edwards that this discovery was not permitted once final judgment was entered and while this case was pending appeal; to no avail. Counsel for Edwards, a seasoned veteran litigation attorney, is undoubtedly aware of the fact that he lacks any legal foundation pursuant to which he may seek discovery post-judgment. The Florida Supreme Court “has recognized the inherent authority of trial courts to assess attorneys’ fees for the misconduct of an attorney in the course of litigation,” even in the absence of a statute authorizing it. *Moakley v. Smallwood*, 826 So. 2d 221 (Fla. 2002) (citing *United States Sav. Bank*

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<sup>1</sup> Because Final Judgment has already been entered, Epstein is cognizant of the fact that this Court may not be permitted to enter any Orders related to these improper discovery requests filed by Edwards, but files this Motion only in direct response to Edwards’s actions and to preserve any rights or recourse he may have regarding same.

*v. Pittman*, 86 So. 567, 572 (Fla. 1920). “Clearly, a trial judge has the inherent power to do those things necessary to enforce its orders, to conduct its business in a proper manner, and to protect the court from acts obstructing the administration of justice.” *Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, [REDACTED] v. United States Fire Ins. Co.*, 639 So. 2d 606, 608-09 (Fla. 1994). As such, Epstein is entitled to his reasonable attorney’s fees necessitated by Edwards’s flagrant disregard of both this Court’s Order and the afore-referenced Rules of Civil Procedure governing discovery and final judgments.

### CONCLUSION

For all of the reasons above, and in reliance upon the case law cited above, Epstein respectfully requests that this Court enter an Order striking Edwards’s post-judgment discovery requests, awarding Epstein his attorneys’ fees incurred as a result of Edwards’s filing improper discovery requests, and such other and such other and further relief as this Court deems just and proper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this January 22, 2015.

/s/ Tonja Haddad Coleman  
Tonja Haddad Coleman, Esq.  
Fla. Bar No.: 0176737  
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