

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

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

SCOTT ROTHSTEIN, individually, and
BRADLEY J. EDWARDS, individually,

Defendants/Counter-Plaintiff.

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
RESPONSE IN OPPOSITION TO DEFENDANT/COUNTER-PLAINTIFF
BRADLEY EDWARDS' SECOND MOTION TO LIFT CONFIDENTIALITY
DESIGNATION OF EPSTEIN'S DISCLOSURE OF CONFIDENTIAL SETTLEMENT
INFORMATION**

Plaintiff/Counter-Defendant, Jeffrey Epstein ("Epstein"), opposes the Second Motion filed by Defendant/Counter-Plaintiff, Bradley J. Edwards ("Edwards"), to Lift Confidentiality Designation of Epstein's Disclosure of Confidential Settlement Information [D.E. 1196], and states:

INTRODUCTION

Consistent with his position throughout this litigation, Epstein asks this Court to prevent Edwards' attempt – clearly evident through this second request to disclose gross settlement amounts - to turn this single lawsuit and malicious prosecution counterclaim into a month-long trial of mini-trials, all of which pertain to unrelated claims, lawsuits, or claimants who were never represented by Edwards. Simply, Edwards' Second Motion to Lift Confidentiality should be denied and this Court's decision to allow any evidence about settlements relating to non-

Edward claimants should be changed. The gross number of settlements and the settlement amounts are irrelevant to the issues in this case, and are unfairly prejudicial even if relevant. Furthermore, the gross settlement amounts do not support Edwards' "motive" argument and are improper impeachment evidence.

However, if the Court maintains its ruling that the number of settlements pre December 6, 2009 and post December 6, 2009 are admissible, then the settlement amounts should not be publicly revealed until trial and until Epstein is provided the opportunity to re-depose Edwards. At the hearing on Edwards' first Motion to Lift Confidentiality, Mr. Scarola repeatedly told the Court that Edwards was actively involved in all of the identified cases. As a result, before disclosure Epstein should be permitted to take Edwards' deposition for the limited purpose of questioning him about his involvement in each of the settled cases, whether the plaintiffs consented to his taking the lead in their cases, which lawyers consented, if there is any documentation to support this "lead" contention, what evidence Edwards has that Epstein was aware of Edwards' alleged lead role, Edwards' participation in the negotiation of these settlements, and if Edwards received a fee from any of those settlements in which he was the "lead" lawyer. These are all relevant areas of inquiry which came up post discovery closing and driven by the Court's rulings in the last two months and specifically on the issue of lifting confidentiality.

BACKGROUND

On January 5, 2018, the Court ordered Epstein to disclose **as confidential, for attorneys' and client's eyes only**, "the number of claims settled regarding individuals who alleged to be victims of sexual misconduct by Epstein" from December 6, 2007 to December 6, 2009, and the

“gross settlement amount.” The same was ordered for the period December 7, 2009 through the present. *See Exhibit A* (the “Confidentiality Order”).

Epstein timely produced this court-ordered information to Edwards in a document titled “Confidential, for Attorneys’ and Client’s Eyes Only Epstein’s Disclosure of Confidential Settlement Information.” The Confidentiality Order requires a party to file an appropriate motion to lift the confidentiality designation prior to quoting, disclosing, relying on or using in this litigation any of the confidential settlement information. *See Exhibit A* at ¶3.

Edwards *first* moved to lift the confidentiality designation concerning the aggregate number of claims settled by Epstein before and after this lawsuit was filed. [D.E. 1165.] On February 12, 2018, the Court granted Edwards’ Motion “as to those cases in which Bradley Edwards prosecuted or participated both before and after Epstein filed the subject lawsuit.” *See* February 12, 2018, Order attached as **Exhibit B**.

That same day, following this Court’s ruling, Edwards filed his *Second* Motion to Lift Confidentiality. [D.E. 1196.] Edwards now seeks to lift the confidentiality designation as to the gross settlement amounts paid by Epstein before and after this lawsuit was filed. Edwards bases his motion on the reasons contained in his First Motion to Lift Confidentiality Designation [D.E. 1165], and on Epstein’s purported intention to introduce the gross settlement amounts into evidence himself.

ARGUMENT

Epstein incorporates herein the arguments set forth in his Response in Opposition to Edwards’ first Motion to Lift Confidentiality Designations of Epstein’s Disclosure of Confidential Settlement Information. [D.E. 1192.]

A. The Gross Settlement Amounts of Other Claims are Irrelevant to the Issues in This Case

The number of unrelated claims settled by Epstein with individuals who alleged to be victims of sexual misconduct by Epstein and the gross settlement amounts have no bearing on Edwards' Counterclaim for malicious prosecution and Epstein does not believe ANY of the information should be admissible at trial. Edwards has taken the same position as to the amounts in his own filings. To quote Edwards himself, in his recent Motion in Limine to preclude Epstein from arguing to the jury that Edwards is seeking substantially more money for his own alleged anxiety and emotional distress than he recovered collectively for his three clients:

Obviously, there is no relevance whatsoever . . . as the parties were different, the cases were different, the claims were different, the damage categories were different, and the decision to settle a claim always involves compromise . . . This argument has no potential to prove or disprove any material fact and, even if it did, would be unfairly prejudicial.

[D.E. 1189, ¶5.] Exactly.

In fact, the only lawsuit Epstein filed was against Rothstein and Edwards because he was a "partner" at the Rothstein law firm. Unless the other lawyers who represented clients with claims against Epstein were also partners at the Rothstein law firm and communicated with Rothstein about their pending lawsuits, there could be nothing about Epstein's lawsuit's allegations that would have made them worried that they too could be a defendant in a lawsuit filed by Epstein. Without a partnership and communication with Rothstein, those other attorneys would have no basis to rush to settle their clients' lawsuits. Therefore, the settlement amounts of other claimants have no relevance in this trial.

However, because the Court is allowing Edwards to present information about the *number* of claims, Epstein believes the *settlement amounts* should also be disclosed in order to

provide the jury with a complete picture of the potential liability Epstein was facing, which clearly contradicts Edwards’ “motive” theory.

B. Edwards’ “Motive” Argument is Meritless, Too

Edwards adopts the argument in his First Motion to Lift Confidentiality that one of Epstein’s primary motives in filing this lawsuit was “to intimidate [claimants] into cheaply compromising or abandoning” their claims against Epstein. [D.E. 1165 at ¶5.] Thus, the gross settlement amounts paid by Epstein before filing this lawsuit would be irrelevant. Those claims had already settled. Further, this alleged motive is belied by the fact that Edwards’ three claimants—who settled with Epstein *after* he filed suit against Edwards—settled for more than any other claimant! This does not reflect intimidation of claimants, abandonment of claims or cheap compromise. In fact, when comparing the pre- and post-suit settlement numbers, Epstein settled more claims for more money *after* filing suit against Edwards.

C. Any Probative Value is Outweighed by the Danger of Unfair Prejudice and Jury Confusion

To the extent Edwards could argue remote relevance, any alleged probative value “is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.” § 90.403, Fla. Stat. “‘Unfair prejudice’ has been described as ‘an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.’ This rule of exclusion ‘is directed at evidence which inflames the jury or appeals improperly to the jury’s emotions.’” *Wright v. State*, 19 So. 3d 277 (Fla. 2009).

If the jury in this case hears the gross settlement amounts paid by Epstein before and after this lawsuit was filed, this will unfairly prejudice Epstein by confusing and distracting the jury from the primary issue before them—whether Epstein had probable cause to file his lawsuit

against Edwards. *Compare United Auto. Ins. Co. v. Estate of Levine ex rel. Howard*, 87 So. 3d 782, 785 (Fla. 3d DCA 2011) (lower court properly excluded evidence that the insurance company settled some of the other car accident claimants' claims, because the admission of such evidence brought the risk of distracting the jury by taking their focus away from the real issue—whether the insurance company acted in bad faith in failing to settle the plaintiff's claim; "the trial court fairly balanced the purported relevance and probative value of the [other] settlements against the prejudicial impact").

Undue delay is also possible, as the introduction of the gross settlement amounts may lead to a trial within a trial. *See Slocum v. State*, 757 So. 2d 1246, 1251 (Fla. 4th DCA 2000) ("To open the door to evidence about an unrelated case was to create a trial within a trial; there was a risk that the trial would be needlessly lengthened and that the additional evidence would obscure the discovery of the truth.").

D. Settlement of Sexual Misconduct Claims is Improper Impeachment Evidence

Regardless of the numbers, any reference to Epstein having settled claims for sexual misconduct is also inadmissible under section 90.609, Florida Statutes. Such references are inadmissible as they are irrelevant to Epstein's truthfulness agreement. *See* § 90.609, Fla. Stat. (2017) (character evidence used to impeach a witness "may refer only to character relating to truthfulness").

E. Alternatively, Epstein Should Be Permitted to Depose Edwards on These Post-Discovery Matters

The Court has already ruled that confidentiality be lifted "as to those cases in which Bradley Edwards prosecuted or participated both before and after Epstein filed the subject lawsuit." *See Exhibit B*. If the Court now rules that the gross settlement amounts are also

admissible, Epstein should be permitted to depose Edwards on these matters which came to light after discovery had closed.

CONCLUSION

Epstein respectfully requests that Edwards' Second Motion to Lift Confidentiality Designation of Epstein's Disclosure of Confidential Information be denied. Alternatively, Epstein requests that he be permitted to take Edwards' deposition for the limited purposes set forth above.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on February 22, 2018, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

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EXHIBIT A

NOT A CERTIFIED COPY

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

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

SCOTT ROTHSTEIN, individually, and
BRADLEY J. EDWARDS, individually,

Defendants/Counter-Plaintiff.

ORDER COMPELLING EPSTEIN TO PRODUCE SETTLEMENT AMOUNTS

THIS CAUSE came before the Court upon Counter-Plaintiff's *ore tenus* motion on December 7, 2017. The Court, having heard argument of counsel does hereby,

ORDER AND ADJUDGE that:

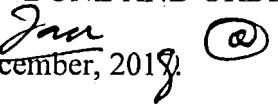
1. Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein") shall produce to Defendant/Counter-Plaintiff Bradley J. Edwards ("Edwards") the following:
 - a. The number of claims settled by Jeffrey Epstein regarding individuals who alleged to be victims of sexual misconduct by Epstein, from December 6, 2007 to December 6, 2009;
 - b. The gross settlement amount paid by Epstein to individuals who alleged to be victims of sexual misconduct by Epstein, from December 6, 2007 to December 6, 2009;
 - c. The number of claims settled by Jeffrey Epstein regarding individuals who alleged to be victims of sexual misconduct by Epstein, from December 7, 2009 through the present; and

The court has reviewed the hearing transcripts and the competing Orders and finds that this Order captures more accurately the intent of the court as it relates to the court's oral rulings at the subject hearing. @

- d. The gross settlement amount paid by Epstein to individuals who alleged to be victims of sexual misconduct by Epstein, from December 7, 2009 through the present.
2. The number of claims and amounts shall be produced as "Confidential, for Attorneys' and Clients' Eyes Only," and shall not, directly or indirectly, be disclosed to anyone else or used outside of this litigation.
3. If a party intends to quote, disclose, rely on or use in this litigation information or documents that have been deemed "Confidential, for Attorneys' and Clients' Eyes Only," whether in papers filed with the Court or verbally, in connection with a motion, hearing, deposition or trial, before any such information is quoted, disclosed, relied upon or used, the party must file a Motion to have the information or documents deemed to be no longer confidential, must file the information or documents under seal in accordance with Administrative Order 2.303-9/09 and have the proposed quote, disclosure, reliance or use of such information or documents heard and approved by the Court.
4. The Court defers rulings on the admissibility of the number of claims and the gross settlement amounts disclosed pursuant to this Order and the admissibility of the combined settlement amounts of Edwards' three clients for whom Edwards was prosecuting civil cases against Epstein at the time Epstein filed the December 7, 2009 lawsuit against Edwards. No production of the underlying Settlement Agreements with each of Edwards' three clients or with any other alleged victim is required by this Order. The Court defers ruling on whether there will be any further disclosure of any breakdown of the settlement amounts paid by Epstein.
5. Epstein shall file a new Motion addressing separately the admissibility of the aggregate settlement amount paid to Edwards' three clients and the gross settlement amounts

disclosed pursuant to this Order. The Motion should also address Epstein's position as to the production of any Settlement Agreements underlying any settlements paid by Epstein and outline the confidentiality provisions governing those agreements. To the extent that disclosure of any such provisions is subject to confidentiality, disclosure shall be made under seal in accordance with Administrative Order 2.303-9/09.

6. The parties shall schedule a 30-minute hearing on Epstein's Motion. Edwards shall respond to the Motion in accordance with this Court's judicial instructions.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 5 day
of December, 2019. 

THE HONORABLE DONALD W. HAFELE
CIRCUIT COURT JUDGE

SERVICE LIST

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EXHIBIT B

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

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

Defendant(s).

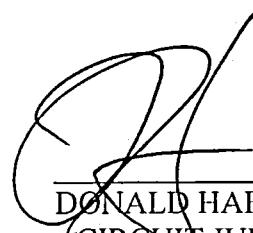
**ORDER ON MOTION TO LIFT CONFIDENTIALITY DESIGNATION OF EPSTEIN'S
DISCLOSURE OF CONFIDENTIAL SETTLEMENT INFORMATION**

THIS CAUSE having come to be considered upon the MOTION TO LIFT
CONFIDENTIALITY DESIGNATION OF EPSTEIN'S DISCLOSURE OF CONFIDENTIAL
SETTLEMENT INFORMATION, and the Court having reviewed the file and being fully advised
in the premises, it is hereby,

ORDERED and ADJUDGED: *That the motion is granted as*

*to those cases in which Bradley Edwards
prosecuted or participated both before and after* ^{to}
DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, this 12

day of July, 2018.



DONALD HAFELE
CIRCUIT JUDGE

Copies have been furnished to all counsel on the attached counsel list.

Epstein filed the subject lawsuit. (u)

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Case No.: 502009CA040800XXXXMBAG
Order on Motion to Lift Confidential Designation of Epstein's
Disclosure of Confidential Settlement Information

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