

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,

Defendant,

**RESPONSE IN OPPOSITION TO EPSTEIN'S MOTION FOR PROTECTIVE ORDER
AND IN LIMINE OF UNRELATED SETTLEMENT AGREEMENTS**

Counter-Plaintiff, Bradley J. Edwards, by and through undersigned counsel, hereby files this Response in Opposition to Jeffrey Epstein's Motion for Protective Order and in Limine of Unrelated Settlement Agreements, and as grounds therefor states as follows:

Introduction

One of the underpinnings of Epstein's malicious prosecution against Edwards was that Edwards had "fabricated," "manufactured" and "ginned up" his clients' claims against Epstein for the express purpose of supporting a massive Ponzi scheme. In furtherance of this patently false charge, Epstein alleged that the claims being pursued by L.M., E.W. and Jane Dow "were weak and had minimal value." Complaint at ¶ 42(h).¹ In fact, Epstein even sued one of his victims, L.M., and charged that she was knowingly furthering Scott Rothstein's Ponzi scheme by seeking a

¹ Allegations that the victims' claims were ginned up are replete throughout Epstein's maliciously-filed complaint.

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

“multi-million dollar recovery . . . which was completely out of proportion to her alleged damages.” *Id.* at ¶ 7. Thus, there can be no credible argument that Epstein has not put at issue the amounts voluntarily paid by Epstein to settle these purported “weak” claims.²

Argument

Epstein’s motion once again ignores a critical fact: this is his lawsuit. Epstein chose to file suit against Edwards and built the playing ground on which the parties must litigate. The only remaining claim is Edwards’ malicious prosecution counterclaim, which is premised on the assertion that Epstein lacked probable cause to file the underlying complaint. Thus, when Epstein argues that evidence of settlement amounts related to L.M., E.W. and Jane Doe’s cases are not relevant, he defeats his own argument by having put the value of their cases at issue. And, while evidence regarding settlement amounts is admittedly highly prejudicial to Epstein’s ability to support his fabricated claims against Edwards, that prejudice is neither unfair nor unjust.

A. The Timing and Settlements Paid to L.M., E.W., and Jane Doe are Relevant under a 401 Analysis³

² The Court has previously ruled that the number of claims that Epstein was facing at the time he initiated, and during his continuance of, this proceeding against Edwards, and the significant financial exposure related to those claims, is admissible (although the details and merits of the claims may not be disclosed without further Court order).

³ While Edwards asks the Court to permit him to introduce evidence of the settlement amounts and date of each settlement, at this time Edwards does not intend to introduce the settlement agreements between Epstein and L.M., E.W., and Jane Doe. Epstein’s trial strategy or subsequent rulings by the Court, however, could impact Edwards’ decision in that regard. For example, L.M.’s settlement agreement includes reference to the underlying claims brought against her by Epstein. Thus, it is possible that Edwards may seek to introduce L.M.’s settlement agreement into evidence to rebut assertions made by Epstein at trial.

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

As a result of the false charges that L.M., E.W. and Jane Doe's cases were "fabricated" and "had minimal value," Edwards intends to introduce to the jury the individual settlement amounts received by L.M. (\$1,000,000), E.W. (\$2,000,000) and Jane Doe (\$2,500,000), and well as the dates that the cases were settled (2010). The relevance and probative value of these facts is straightforward: they will help assist the jury in determining whether Epstein was motivated to sue Edwards as a means of attempting to evade liability to his victims, whether Epstein had probable cause to believe that the cases were "fabricated" and "weak" at the time he filed the lawsuit, and whether Epstein had probable cause to continue his malicious prosecution for another two years after the settlements were reached. *See* § 90.401, Fla. Stat.

The settlement amounts paid to Edwards' clients are particularly relevant and material to Epstein's motive to file this baseless lawsuit.⁴ Epstein knew at the time he filed suit that Edwards' clients' claims were exceedingly strong and represented a great risk of significant financial exposure, whether via settlement or through a compensatory and punitive damage verdict. Epstein therefore filed this lawsuit in order to intimidate Edwards and his clients, L.M., E.W. and Jane Doe, into cheaply compromising their valuable claims. Moreover, by suing the attorney representing the victims who had suffered the most, Epstein was sending a message to every other victim. If Epstein was willing to use his billions to sue children that he had molested 20, 30, or

⁴ Page 1 of Epstein's Motion for Protective Order details the contested factual issue regarding Epstein's motive:

"Edwards has argued that Epstein's filing of the original civil proceeding against Edwards was motivated by a desire to silence [L.M., E.W. and Jane Doe] and possibly others. Epstein denies this motivation[.]."

150+ times and their counsel, what else might he be willing to do to avoid an extended prison term and tens or even many hundreds of millions of dollars in damages?

B. The Timing and Settlements Paid to L.M., E.W., and Jane Doe Are Not Subject to Exclusion Under a 403 Analysis.

Epstein's claim that evidence related to the settlements of L.M., E.W., and Jane Doe is unduly prejudicial under a 403 analysis is baseless. "In order for relevant, probative evidence to be deemed unfairly prejudicial, it must go beyond the inherent prejudice associated with any relevant evidence. Relevant evidence is inherently prejudicial; however, it is only unfair prejudice, substantially outweighing probative value, which permits exclusion of relevant matters." State v. Gad, 27 So. 3d 768, 770 (Fla. 2d DCA 2010) (internal quotations omitted). Relevant evidence of Epstein's having settled claims brought by L.M., E.W., and Jane Doe is of course inherently prejudicial because it is at least circumstantial if not direct evidence that Epstein lacked probable cause to claim that the cases were "fabricated" or "weak". There is however no unfair prejudice from this evidence, which is only relevant due to Epstein's false allegations that the three victims' claims were "fabricated," "ginned up," and "had minimal value." While the Court has understandably made efforts to sanitize the trial as much as possible, the values of the claims being pursued by L.M., E.W., and Jane Doe are at the very heart of this case and there is no unfair prejudice to admitting this relevant evidence.

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

C. Evidence of Settlements Paid in Prior Cases is Admissible Under Florida Law.

Finally, Section 90.408, Fla. Stat. does not bar introduction of the amount of settlement payments made to L.M., E.W, and Jane Doe because the settlements are relevant to an element of Edwards' claim (in case two), lack of probable cause, and are not being used to prove Epstein's liability in the civil cases brought by those three victims (case one). As stated by the Fourth District Court of Appeal in Levin v. Ethan Allen, Inc.:

Although settlement offers are generally not admissible as evidence in the lawsuit in which the offers are made, **an offer of settlement in one case can be relevant in another case.**

825 So. 2d 132, 139 (Fla. 4th DCA 2002) (emphasis added) (holding that the trial court erred in excluding settlement offers from case one under Section 90.408, because the settlement offers were relevant to contested factual issues in case two).

For example, in Ritter v. Ritter, the husband to a divorce proceeding sought to include the value of his wife's pending personal injury claim as an asset in the parties' equitable distribution. 690 So. 2d 1372, 1376 (Fla. 2d DCA 1997). In order to place a value on that asset, the husband sought to introduce evidence of the wife's offer to settle the claim with the at-fault party's insurance company. *Id.* The Second DCA reversed the trial court's ruling excluding that evidence under Section 90.408, because the settlement offer in the personal injury case (case one) was relevant to a contested factual issue in the divorce proceeding (case two) and did not propose to settle any issue in that proceeding. *See id.* Thus, Section 90.408 did not bar introduction of the settlement amount offer in the divorce proceeding. *Id.*

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

The value of the independent claims has been expressly placed in issue by Epstein's allegations in his maliciously filed Complaint. There is no better evidence of that value than the price he chose to pay to resolve those independent claims. These were not merely offers or demands, they are the final contracted prices for the settlements. Here we are speaking merely of "Offers" to settle.

Similarly, the settlement amounts paid by Epstein are relevant both as to whether Epstein had an economic motive to extort Edwards, to the extent of that motive, and as to whether Epstein had probable cause to file this malicious proceeding alleging that the claims against Epstein by L.M., E.W., and Jane Doe were "fabricated," "ginned up" and "had minimal value." Moreover, the settlements paid by Epstein in the victim cases did not propose to settle any claim related to Edwards in this proceeding. Based on *Levin* and *Ritter*, the settlement amounts are therefore admissible.

Conclusion

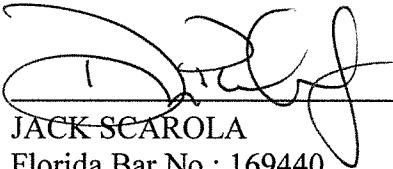
For the foregoing reasons, the Court should deny Jeffrey Epstein's Motion for Protective Order and In Limine of Unrelated Settlements and permit Edwards to introduce the timing and settlement amounts paid to L.M., E.W., and Jane Doe.

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 16 day of January, 2018.



JACK SCAROLA

Florida Bar No.: 169440

DAVID P. VITALE JR.

Florida Bar No.: 115179

Attorney E-Mail(s): jsx@searcylaw.com and
mmccann@searcylaw.com

Primary E-Mail: ScarolaTeam@searcylaw.com

Searcy Denney Scarola Barnhart & Shipley, P.A.

2139 Palm Beach Lakes Boulevard

West Palm Beach, Florida 33409

Phone: (561) 686-6300

Fax: (561) 383-9451

Attorneys for Bradley J. Edwards

Edwards adv. Epstein
Case No.: 502009CA040800XXXXMBAG
Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

COUNSEL LIST

Bradley J. Edwards, Esquire
staff.efile@pathtojustice.com
425 N Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301
Phone: (954)-524-2820
Fax: (954)-524-2822

Jack A. Goldberger, Esquire
jgoldberger@agwpa.com; smahoney@agwpa.com
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue S, Suite 1400
West Palm Beach, FL 33401
Phone: (561)-659-8300
Fax: (561)-835-8691
Attorneys for Jeffrey Epstein

Nichole J. Segal, Esquire
njs@FLAppellateLaw.com; ktb@FLAppellateLaw.com
Burlington & Rockenbach, P.A.
444 W Railroad Avenue, Suite 350
West Palm Beach, FL 33401
Phone: (561)-721-0400
Attorneys for Bradley J. Edwards

Scott J. Link, Esquire
Eservice@linkrocklaw.com; Scott@linkrocklaw.com; [Kara@linkrocklaw.com](mailto>Kara@linkrocklaw.com);
Angela@linkrocklaw.com; Tanya@linkrocklaw.com; tina@linkrocklaw.com
Link & Rockenbach, P.A.
1555 Palm Beach Lakes Boulevard
Suite 301
West Palm Beach, FL 33401
Phone: (561)-727-3600
Fax: (561)-727-3601
Attorneys for Jeffrey Epstein

Marc S. Nurik, Esquire
marc@nuriklaw.com

Edwards adv. Epstein

Case No.: 502009CA040800XXXXMBAG

Response in Opposition to Epstein's Motion for Protective Order and In Limine of Unrelated Settlements

One E Broward Blvd., Suite 700

Fort Lauderdale, FL 33301

Phone: (954)-745-5849

Fax: (954)-745-3556

Attorneys for Scott Rothstein

NOT A CERTIFIED COPY