

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

CASE NO.: 502009CA040800 AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

SCOTT ROTHSTEIN, etc., et al.,

Defendant(s).

ORDER ON MOTIONS

THIS CAUSE came before the Court upon the Plaintiff/Counter-Defendant, JEFFREY EPSTEIN's Motion for Protective Order Relating to his Deposition and Motion to Terminate Deposition, and upon the Defendant/Counter-Plaintiff, BRADLEY J. EDWARDS' Motion to Compel and Impose Sanctions. The Court has heard argument of counsel, has reviewed the Memorandums they have filed in support of their respective positions and has reviewed the authorities cited therein. In addition, this Court has again reviewed in detail the Corrected Second Amended Complaint filed by the Plaintiff, JEFFREY EPSTEIN, and the Counterclaim filed by the Defendant, BRADLEY J. EDWARDS. In addition, this Court had an opportunity to review the deposition of the Plaintiff, JEFFREY EPSTEIN, which gives rise to the competing Motions. After a thorough review of the above, and being otherwise fully advised in the premises, it is thereupon

CONSIDERED, ORDERED AND ADJUDGED as follows:

The competing Motions before the Court deal with the scope of discovery to be allowed by the Defendant against the Plaintiff in regard to certain "sexual" activities of the Plaintiff. The Plaintiff contends that such questions are entirely immaterial and irrelevant and are merely interposed to embarrass, harass and otherwise for improper purposes, including but not limited to obtaining evidence to support another action filed

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on behalf of the Defendant EDWARDS' clients or potential clients. On the other hand, the Defendant/Counter-Defendant EDWARDS contends that the questions are entirely appropriate, relevant, and otherwise calculated to lead to admissible evidence in the case, including but not limited to disputing the allegations of the Complaint against him claiming an abuse of process in actions taken by the Defendant in prosecuting claims for sexual misconduct of the Plaintiff.

The history giving rise to the abuse of process claims of the Plaintiff began with his prosecution for certain alleged sexual misconduct involving minors. As a result of such alleged conduct, the Defendant represented at least three minor plaintiffs in lawsuits against the Plaintiff all arising out of alleged sexual misconduct. In addition, the Defendant/Counter-Plaintiff EDWARDS on behalf of his clients filed a federal action in Federal Court pursuant to 18 USC §2255.

Sometime after EDWARDS undertook representation of the minor plaintiffs, he joined the law firm of Rothstein, Rosenfeld & Adler, P.A. Subsequent to his joining the firm, Rothstein and others were charged with a criminal enterprise involving an approximately \$1.2 billion Ponzi scheme which was perpetrated with fake agreements, forged signatures and various other improprieties.

In the Plaintiff's claim against the Defendant for abuse of process, the abuse of process is claimed to include but is not limited to the following:

EDWARDS filing a state court action on behalf of a client L. M. against EPSTEIN seeking damages. Filing on behalf of a client a 234 page 156 count Complaint against EPSTEIN in U. S. District Court for the Southern District of Florida. EDWARDS included in said claim highly charged sexual allegations that EDWARDS knew or should

have known were false. Allegations that the Federal Complaint was prepared by EDWARDS with highly charged sexual allegations solely to be shown as an inducement to investors in the EPSTEIN actions which are claimed to be furtherance in the Ponzi scheme perpetrated by Rothstein and others. Filing a State Court Complaint against EPSTEIN on behalf of E. W. Making illegal, improper and perverted use of the civil process in order to bolster the case to investors by taking unreasonable and unnecessary discovery, including but not limited to deposing airline pilots, noticing and subpoenaing depositions of various individuals, taking the deposition of the Plaintiff's brother and asking outrageous questions about the Plaintiff in deposition, conducting irrelevant and meritless discovery by issuing subpoenas to an alleged sex therapist of the Plaintiff. Filing notices of depositions of various healthcare providers as well as numerous other alleged discovery abuses. It is contended that all of these actions were for ulterior purposes of perpetuating the "Ponzi scheme" rather than for legitimate purposes of pursuing EDWARDS' minor clients' rights in their claims for sexual battery or abuse by EPSTEIN.

Neither party has provided any authority in regard to the specific issue before his Court. Rule 1.280, however, sets forth the general rule concerning "scope of discovery". That rule provides in pertinent part as follows:

* * *

(b) Scope of Discovery. Unless otherwise limited by order of court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action . . .

Under the relevance part of this test, the information sought is not objectionable if it appears reasonably calculated to lead to the discovery of admissible evidence even though the information is inadmissible itself.

The Plaintiff contends that the sexual explicit questions being asked by the Defendant are neither relevant nor material nor calculated to lead to admissible evidence in the case because they have specifically limited their allegations of "abuse of process" to specific identifiable items. In this context they contend that whether or not the allegations contained in the Complaints against the Plaintiff were true or not is immaterial and irrelevant. They contend the issue is only the alleged "motive" or "ulterior purpose" of the Defendant. To the contrary, the Defendant contends that he should not be handcuffed in defending his actions by not allowing him to prove that the discovery initiated and actions taken were in furtherance of a legitimate purpose and would, in fact, lead to the discovery of admissible evidence.

The Court has given due consideration to all the arguments presented. Clearly, the material sought is not "privileged" (except perhaps a privilege against self incrimination). Therefore, the issue is whether it is calculated to lead to admissible evidence whether or not admissible itself. Absent any contrary authority, and given the liberality of discovery, it would seem only logical that the Defendant should be able to establish that the actions he was undertaking were reasonably calculated to lead to the discovery of admissible evidence and were in furtherance of the claims of the minor Plaintiffs and not for some ulterior purpose. Certainly this may lead to circumstantial evidence of the lack of an ulterior purpose. Furthermore, the Complaint filed against EDWARDS is broad enough at least to allow the Defendant to defend the allegations that

the lawsuits made "unfounded sexual allegations", "had no legitimate purpose", and to establish that there was a good faith basis for the claims and discovery. Again, this may be circumstantial evidence as to whether the conduct of EDWARDS in prosecuting these claims was for "an illegal, improper or perverted use of the civil process". To do otherwise, in this Court's opinion, would be an attempt to sanitize this case. The Plaintiff, having voluntarily elected to pursue the specific claims as set forth in the Corrected Second Amended Complaint against the Defendant EDWARDS, the Court finds that EDWARDS is entitled to defend himself by proving whether or not the allegations set forth in the Complaint against him as well as the discovery he instituted, were not for illegal, improper or perverted use, but, in fact, were calculated to lead to admissible evidence in the case and were in furtherance of a legitimate purpose.

The Court declines, however, at this time, to make specific rulings as to specific questions. The Court will allow discovery in regard to any allegation contained in the Corrected Second Amended Complaint against the Defendant. To what extent that may allow questions to be asked in regard to the sexual activities of the Plaintiff will be left to a case by case decision. In all other respects the Motions are denied at this time.

DONE AND ORDERED this 5th day of April, 2012 at West Palm Beach, Palm Beach County, Florida.



DAVID F. CROW
CIRCUIT COURT JUDGE

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