

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
OBJECTION TO UNILATERAL SETTING OF MARCH 22, 2018
UMC HEARING**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein") objects to the unilateral setting of the March 22, 2018, UMC hearing by Defendant/Counter-Plaintiff Bradley J. Edwards ("Edwards"), and brings this matter to the Court's attention pursuant to The Florida Bar's Professionalism Expectations ("Professionalism Expectations") and the Palm Beach County Bar Association's Standards of Professional Courtesy and Civility ("Standards"), and states:

BACKGROUND

1. On March 20, 2018, at 3:50 p.m., the Fourth District Court of Appeal granted Edwards' motion to lift the stay of this case, in part.
2. On March 20, 2018, at 4:48 p.m., Edwards' counsel, David P. Vitale, Jr., of the Searcy Denny law firm, requested undersigned counsel's availability on Thursday, March 22, 2018, for a status conference UMC hearing.

3. Undersigned counsel promptly responded and advised that they had a conflict on March 22, 2018. Counsel thereafter agreed to schedule a UMC hearing on Monday, March 26, 2018.

4. On March 20, 2018, at 5:47 p.m., Edwards' counsel filed a Motion for Status Conference and a Notice of Hearing, setting the Motion for UMC hearing on March 26, 2018, as agreed.

5. On March 21, 2018, at 5:21 a.m., Jack Scarola of the Searcy Denny law firm demanded to know the basis for unsigned counsel's unavailability on March 22, 2018, stating, "In the absence of a reasonable explanation for the delay, I intend to appear before Hafele tomorrow to address the rescheduling of pretrial issues and trial."

6. Although not required to provide such a detailed explanation, undersigned counsel, in the spirit of professionalism and the conduct expected of both counsel set out in the Standards, advised Mr. Scarola of the conflict (out-of-town travel). A copy of the e-mail exchange starting with Mr. Vitale's request is attached as **Exhibit A**.

7. Mr. Scarola refused to accept undersigned counsel's representations and instead, unilaterally re-noticed the hearing for March 22, 2018, knowing undersigned counsel is not available.

ARGUMENT

At our statewide level, *Professionalism Expectation 6.6* requires Epstein's counsel to present this objection and promptly call this scheduling problem to the Court's attention:

A lawyer should promptly call potential scheduling conflicts or problems to the attention of those affected, including the court or tribunal.

Epstein's counsel fully complied with *Professionalism Expectation 6.5* which requires an attorney to "promptly agree to a proposed time for a hearing, deposition, meeting or other proceeding or make his or her own counter proposal of time.

Despite Epstein's counsel's efforts and offer of the very next uniform motion calendar date held by this Court, Edwards failed to comply with *Professionalism Expectation 6.4:*

A lawyer should accede to all reasonable requests for scheduling, rescheduling, cancellations, extensions, and postponements that do not prejudice the client's opportunity for full, fair, and prompt adjudication.

Even more close to home, Local Rule 4 requires a Notice of Hearing be served "pursuant to the applicable rules of procedure, and the Standards of Professional Courtesy and Civility ("Standards"), which have been endorsed by the judges of the Fifteenth Judicial Circuit." Those *Standards* provide:

I. Scheduling

1. Attorneys should endeavor to provide opposing counsel and pro se litigants (collectively, "opposing counsel"), parties, witnesses, and other affected persons, sufficient notice of depositions, hearings and other proceedings, except upon agreement of counsel, in an emergency, or in other circumstances compelling more expedited scheduling. As a general rule, actual notice should be given that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions and five (5) business days for hearings.
2. Attorneys should communicate with opposing counsel prior to scheduling depositions, hearings and other proceedings, so as to schedule them at times that are mutually convenient for all interested persons. Further, sufficient time should be reserved to permit a complete presentation by counsel for all parties. Upon receiving an inquiry concerning a proposed time for a hearing, deposition, meeting or other proceeding, a lawyer should promptly agree to the proposal or offer a counter suggestion that is as close in time as is reasonably available, and attorneys should cooperate with each other when conflicts and calendar changes are reasonably necessary. Only after making a reasonable effort to confer with opposing counsel should attorneys unilaterally schedule depositions, hearings or other matters.

(Emphasis added.)

Furthermore, Florida Rule of Civil Procedure 1.090(d) provides, “A copy of any written motion which may not be heard *ex parte* and a copy of the notice of hearing thereof shall be served **a reasonable time before the time specified for the hearing.**” (Emphasis added.)

Undersigned counsel was readily willing to professionally forego the five-business-day notice requirements of the *Standards* and agreed to set the status conference on Monday, March 26, 2018 – two-business days after the Thursday, March 22, 2018, date initially proposed by Edwards’ counsel. Edwards’ counsel agreed to the March 26, 2018, date as well, and then about-faced and demanded that the hearing be held on March 22, 2018.

There is no emergency that requires that the hearing be held on March 22, 2018, and Edwards will not be prejudiced by a two-business day delay. Epstein, on the other hand, will be prejudiced if the Court goes forward with the hearing without representation by counsel, who will be out of the state. Undersigned counsel was prompt in responding to requests for hearing time, and the hearing was initially set on an agreed-upon date on the Court’s following motion calendar date, Monday, March 26, 2018. Edwards’ counsel, on the other hand, has acted in violation of the *Professionalism Expectations* identified above, the *Standards of Professional Courtesy and Civility*, Local Rule 4, and the Florida Rules of Civil Procedure by unilaterally setting the hearing on a date Epstein’s counsel is not available.

Furthermore, Edwards’ counsel stated that one of the purposes of the status conference is to address rescheduling of pretrial issues and trial, however the trial setting has not been resolved by the Fourth District Court of Appeal and such a request is improper and in violation of the Fourth District Court of Appeal’s Order.

Accordingly, Epstein respectfully requests that the March 22, 2018, UMC hearing be cancelled and rescheduled to Monday, March 26, 2018.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on March 21, 2018, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

LINK & ROCKENBACH, PA
1555 Palm Beach Lakes Boulevard, Suite 301
West Palm Beach, Florida 33401
(561) 727-3600; (561) 727-3601 [fax]

By: /s/ Scott J. Link

Scott J. Link (FBN 602991)
Kara Berard Rockenbach (FBN 44903)
Rachel J. Glasser (FBN 577251)
Primary: Scott@linkrocklaw.com
Primary: Kara@linkrocklaw.com
Primary: Rachel@linkrocklaw.com
Secondary: Tina@linkrocklaw.com
Secondary: Troy@linkrocklaw.com
Secondary: Eservice@linkrocklaw.com

*Trial Counsel for Plaintiff/Counter-Defendant
Jeffrey Epstein*

SERVICE LIST

<p>Jack Scarola Karen E. Terry David P. Vitale, Jr. Searcy, Denny, Scarola, Barnhart & Shipley, P.A. 2139 Palm Beach Lakes Boulevard West Palm Beach, FL 33409 mep@searcylaw.com jsx@searcylaw.com dvitale@searcylaw.com scarolateam@searcylaw.com terryteam@searcylaw.com <i>Co-Counsel for Defendant/Counter-Plaintiff</i> <i>Bradley J. Edwards</i></p>	<p>Philip M. Burlington Nichole J. Segal Burlington & Rockenbach, P.A. Courthouse Commons, Suite 350 444 West Railroad Avenue West Palm Beach, FL 33401 pmb@FLAppellateLaw.com njs@FLAppellateLaw.com ktb@FLAppellateLaw.com <i>Co-Counsel for Defendant/Counter-Plaintiff</i> <i>Bradley J. Edwards</i></p>
<p>Bradley J. Edwards Edwards Pottinger LLC 425 N. Andrews Avenue, Suite 2 Fort Lauderdale, FL 33301-3268 brad@epllc.com <i>Co-Counsel for Defendant/Counter-Plaintiff</i> <i>Bradley J. Edwards</i></p>	<p>Marc S. Nurik Law Offices of Marc S. Nurik One E. Broward Boulevard, Suite 700 Ft. Lauderdale, FL 33301 marc@nuriklaw.com <i>Counsel for Defendant Scott Rothstein</i></p>
<p>Jack A. Goldberger Atterbury, Goldberger & Weiss, P.A. 250 Australian Avenue S., Suite 1400 West Palm Beach, FL 33401 jgoldberger@agwpa.com smahoney@agwpa.com <i>Co-Counsel for Plaintiff/Counter-Defendant</i> <i>Jeffrey Epstein</i></p>	<p>Paul Cassell 383 S. University Salt Lake City, UT 84112-0730 cassellp@law.utah.edu <i>Limited Intervenor Co-Counsel for L.M., E.W. and Jane Doe</i></p>
	<p>Jay Howell Jay Howell & Associates 644 Cesery Blvd., Suite 250 Jacksonville, FL 32211 jayhowell.com <i>Limited Intervenor Co-Counsel for L.M., E.W. and Jane Doe</i></p>

EXHIBIT A

NOT A CERTIFIED COPY

Tina L. Campbell

From: Scott J. Link
Sent: Wednesday, March 21, 2018 10:06 AM
To: Jack Scarola
Cc: Tina L. Campbell; Phil Burlington; Paul Cassell; njs@flappellatelaw.com; Mary McCann; Kimberly Marsh; Karen E. Terry; Kara Berard Rockenbach; Joseph Ackerman; jay@jayhowell.com; David P. Vitale Jr.; Chris R. Rodgers; brittany@epllc.com; brad@epllc.com
Subject: Re: Regarding: Edwards, Bradley adv. Epstein (File #: 291874)

Jack I thought we all agreed to reset. Your request is inconsistent with the standards of professionalism. I take it from now on we will just challenge each other when we say were unavailable. Kara and I will be in New York. I will see you on Monday

Scott J. Link
Board Certified Business Litigation

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confirm receipt of time sensitive communications because email deliveries may be delayed or unsuccessful. We do not provide tax advice. Our communications may not be relied upon to avoid penalties that may be imposed by the Internal Revenue Service.

On Mar 21, 2018, at 5:21 AM, Jack Scarola <JSX@SearcyLaw.com> wrote:

Please inform me of the basis for the unavailability of any of Epstein's lawyers to attend either in person or by telephone a simple status conference tomorrow. In the absence of a reasonable explanation for delay, I intend to appear before Hafele tomorrow to address the rescheduling of pretrial issues and trial.

Every additional day of delay stands the obvious chance of further prejudicing our client.

On Mar 20, 2018, at 5:03 PM, David P. Vitale Jr. <dvitale@searcylaw.com> wrote:

Mary - Please set the Motion for Status Conference for UMC on Monday.

David P. Vitale Jr., Esq.

Searcy Denney Scarola Barnhart and Shipley, P.A.
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Fax: 561-383-9465
dvitale@searcylaw.com
www.searcylaw.com
<image001.jpg>

From: Scott J. Link [<mailto:Scott@linkrocklaw.com>]
Sent: March 20, 2018 5:00 PM
To: David P. Vitale Jr. <dvitale@searcylaw.com>
Cc: Kara Berard Rockenbach <Kara@linkrocklaw.com>; Tina L. Campbell <Tina@linkrocklaw.com>;
Kimberly Marsh <kmarsh@searcylaw.com>; Mary McCann <mmccann@SearcyLaw.com>; Jack Scarola
<JSX@SearcyLaw.com>; Chris R. Rodgers <crodgers@SearcyLaw.com>; Karen E. Terry
<KET@SearcyLaw.com>
Subject: Re: Regarding: Edwards, Bradley adv. Epstein (File #: 291874)

I can make that work. Go ahead notice it. Thank you

Scott J. Link
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<image003.jpg>

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On Mar 20, 2018, at 4:54 PM, David P. Vitale Jr. <dvitale@searcylaw.com> wrote:

Okay. How about Monday?

David P. Vitale Jr., Esq.
Searcy Denney Scarola Barnhart and Shipley, P.A.
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West Palm Beach, FL 33409

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dvitale@searcylaw.com
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<image001.jpg>

From: Scott J. Link [<mailto:Scott@linkrocklaw.com>]
Sent: March 20, 2018 4:53 PM
To: David P. Vitale Jr. <dvitale@searcylaw.com>
Cc: Kara Berard Rockenbach <Kara@linkrocklaw.com>; Tina L. Campbell <Tina@linkrocklaw.com>; Kimberly Marsh <kmarsh@searcylaw.com>; Mary McCann <mmccann@Searcylaw.com>; Jack Scarola <JSX@SearcyLaw.com>; Chris R. Rodgers <crodgers@SearcyLaw.com>; Karen E. Terry <KET@SearcyLaw.com>
Subject: Re: Regarding: Edwards, Bradley adv. Epstein (File #: 291874)

Yes David that's what it means.

Scott J. Link
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On Mar 20, 2018, at 4:52 PM, David P. Vitale Jr. <dvitale@searcylaw.com> wrote:

Sorry, but does that mean that neither you or Kara are available for hearing on Thursday?

David P. Vitale Jr., Esq.
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<image001.jpg>

From: Scott J. Link [mailto:Scott@linkrocklaw.com]
Sent: March 20, 2018 4:50 PM
To: David P. Vitale Jr. <dvitale@searcylaw.com>
Cc: Kara Berard Rockenbach <Kara@linkrocklaw.com>; Tina L. Campbell <Tina@linkrocklaw.com>; Kimberly Marsh <kmarsh@searcylaw.com>; Mary McCann <mmccann@Searcylaw.com>; Jack Scarola <JSX@SearcyLaw.com>; Chris R. Rodgers <crodgers@SearcyLaw.com>; Karen E. Terry <KET@SearcyLaw.com>
Subject: Re: Regarding: Edwards, Bradley adv. Epstein (File #: 291874)

David this Thursday isn't going to work what availability do you have for early next week? Scott

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On Mar 20, 2018, at 4:48 PM, David P. Vitale Jr. <dvitale@searcylaw.com> wrote:

Scott/Kara,

We are filing a Motion for Status Conference today, which we intend to notice for UMC on Thursday. Please let us know if you are available for hearing.

Thank you,
David

David P. Vitale Jr., Esq.
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