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

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

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

Defendant/Counter-Plaintiff.

_____/

Case No. 50 2009 CA 040800XXXXMBAG

PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION FOR SUMMARY JUDGMENT ON DEFENDANT/COUNTER-PLAINTIFF BRADLEY EDWARDS'S FOURTH AMENDED COUNTERCLAIM AND SUPPORTING MEMORANDUM OF LAW

Plaintiff/Counter-Defendant, Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.510 of the *Florida Rules of Civil Procedure*, files this Motion for Summary Judgment on Defendant/Counter-Plaintiff Bradley Edwards's Fourth Amended Counterclaim, and in support thereof states the following:

I. PROCEDURAL HISTORY

In December 2009, Epstein filed suit against Scott Rothstein ("Rothstein") and Bradley J. Edwards ("Edwards"), based upon Epstein's justifiable belief at the time of filing his Complaint that these two individuals, and other unknown partners of theirs at Rothstein, Rosenfeldt, Adler ("RRA"), engaged in serious misconduct involving a widely publicized illegal Ponzi scheme operated through their law firm (the "Ponzi Scheme"). Rothstein himself admitted to, and was convicted for, this Ponzi scheme, part of which featured the use of civil cases that had been filed against Epstein by Rothstein's partner

Edwards. After taking the deposition of Scott Rothstein, and receiving numerous adverse rulings from this Court, the Federal government, and the Bankruptcy Court precluding Epstein from receiving discovery germane to proving his case, Epstein dismissed his case against Edwards, without prejudice.

In response to Epstein's original lawsuit, Edwards filed a Counterclaim, and after a series of dismissals thereof and four (4) revisions, Edwards has stated two causes of action against Epstein: Abuse of Process and Malicious Prosecution. Epstein has denied liability as to these claims and has asserted various affirmative defenses which Edwards cannot, and has not, overcome; including the absolute immunity afforded to Epstein for both causes of action under the litigation privilege, and Edwards's failure to state a cause of action in both abuse of process and malicious prosecution. As demonstrated fully below, neither cause of action can stand against Epstein, there are no issues of material fact, and Summary Judgment is warranted as a matter of law.

II. SUMMARY OF THE ARGUMENT

Summary Judgment should be entered in favor of Epstein on Edwards's Fourth Amended Counterclaim (hereinafter "Counterclaim"). First, regarding his Abuse of Process claim, Edwards does not allege any misuse of process by Epstein *after* Epstein filed his lawsuit against Edwards. Moreover, the pleadings, depositions, answers to interrogatories, and other discovery show that there is no genuine issue as to any material fact and that Epstein is entitled to a judgment as a matter of law. Edwards has neither alleged nor provided any evidence of conduct by Epstein that occurred outside the process to support his abuse of process claim. To the extent that any evidence from Edwards establishes anything at all, it makes it unequivocally clear that any and all actions taken by

Epstein for which Edwards is now suing occurred *during the pendency of litigation*, completely barring his claim under the litigation privilege.

Edwards's cause of action for Malicious Prosecution, like his claim for Abuse of Process, is barred by the litigation privilege. Moreover, assuming *arguendo* that somehow Edwards's claims were not barred by the litigation privilege, Edwards has not, and will never be able to, establish a bona-fide termination in his favor. Further, not only does Edwards offer no evidence of a want of probable cause, but the undisputed facts delineated below establish that there was probable cause as a matter of law. Accordingly, Epstein is entitled to judgment as a matter of law.

III. STATEMENT OF UNDISPUTED FACTS

Edwards is suing Epstein for Abuse of Process and Malicious Prosecution. *See Edwards's Fourth Amended Counterclaim.* Edwards's suit is premised upon Epstein's filing of a lawsuit against Edwards and Scott Rothstein ("Rothstein"). *See Edwards's Fourth Amended Counterclaim.* Epstein contends that his filing of the suit, as well as any and all actions taken during the course of prosecuting it, is protected by the litigation privilege, which completely bars Edwards's case against him. *See Epstein's Answer and Affirmative Defenses to Edwards's Fourth Amended Counterclaim.*

In contrast, Edwards contends that Epstein filed his causes of action against Edwards without the requisite cause, and for a myriad of other reasons as delineated in his Counterclaim. *See Edwards's Fourth Amended Counterclaim.* In response to Edwards's assertions, Epstein submits that at the time Epstein filed his case against Edwards and

Rothstein, and each of his Amended Complaints, there existed the following uncontested, incontrovertible, and undeniable facts[1]:

Edwards was a partner at Rothstein Rosenfeld Adler ("RRA") from April 2009 through November 2009. *See Deposition Transcript of Bradley Edwards dated March 23, 2010; Deposition Transcripts of Scott W. Rothstein in In re: Rothstein Rosenfeldt Adler, PA*; 09-34791-RBR and *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19). During that time, his firm was a front for the largest Ponzi scheme in Florida's history. *See Information Charging Scott W. Rothstein in United States of America v. Scott W. Rothstein,* 09-60331-CR-COHN; *Epstein's Answer and Affirmative Defenses to Edwards's Fourth Amended Counterclaim; Deposition Transcripts of Scott W. Rothstein in In re: Rothstein Rosenfeldt Adler, PA*; 09-34791-RBR and *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19). During that time RRA, through its partner, Edwards, was prosecuting three civil cases against Epstein (the "Epstein Cases"). *See pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB AB*; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson; *Deposition Transcript of Jeffrey Epstein*, p. 23; line 4-p. 38; line 22. In early November 2009 Epstein very publicly learned that RRA had imploded, and that his cases; the Epstein Cases; were used to defraud investors of millions of dollars and fund the RRA Ponzi scheme[2]. *Amended Complaint in Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19); *see Deposition Transcript of Bradley Edwards dated March 23, 2010; Deposition Transcripts of Scott W. Rothstein in In re:*

[1] A separate index and copies of all items cited in the undisputed facts is filed contemporaneously herewith.

[2] In fact, one could not read a newspaper or turn on the television without hearing about RRA and the Ponzi scheme for several months.

Rothstein Rosenfeldt Adler, PA; 09-34791-RBR and *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19); *Deposition Transcript of Jeffrey Epstein*. Edwards was the lead counsel and the supervising attorney over each of the Epstein Cases used to lure investors and fund the Ponzi scheme. *See pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB AB*; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson.

In late November 2009, Epstein was also alerted that as a result of the Ponzi scheme at RRA, the Florida Bar had commenced investigations into over one-half of the attorneys (49 of 70) employed by RRA. *See The Florida Bar Daily News Summary dated November 23, 2009; Deposition Transcript of Jeffrey Epstein*, p. 68; line 16- p. 69; line 2. At or about the same time in November 2009, the press reported that the prestigious law firm Conrad Scherer filed a Complaint against Scott Rothstein and others, *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19) (hereinafter referenced as the "Razorback Complaint"), on behalf of some of the Ponzi scheme investors. Mr. Scherer[3] asserted the following in his Complaint regarding the Epstein cases:

> In certain instances, the purported settlements, albeit fraudulent, were based on actual cases being handled by RRA. For example, one of the settlements involved herein was based upon facts surrounding Jeffrey Epstein, the infamous billionaire financier. In fact, **RRA did have inside information due to its representation of one of Epstein's alleged victims in a civil case styled Jane Doe v. Jeffrey Epstein, pending in the Southern District of Florida**. Representatives of D3 were offered "the opportunity" to invest in a pre-suit $30,000,000.00, court settlement against Epstein

[3] Counsel for Mr. Edwards recently testified as an expert witness for Mr. Scherer in a related Rothstein Ponzi scheme case on behalf of the investors regarding punitive damages.

> arising from the same set of operative facts as the Jane Doe case, but involving a different underage female plaintiff. **To augment his concocted story Rothstein invited D3 to his office to view the thirteen banker's boxes of actual case files in Jane Doe in order to demonstrate that the claims against Epstein were legitimate and that the evidence against Epstein was real. In particular, Rothstein claimed that his investigative team discovered that there were high-profile witnesses onboard Epstein's private jet where some of the alleged sexual assaults took place and showed D3 copies of a flight log purportedly containing names of celebrities, dignitaries and international figures.** Because of these potentially explosive facts, putative defendant Epstein had allegedly offered $200,000,000.00 for settlement of the claims held by various young women who were his victims. Adding fuel to the fire, the investigative team representative privately told a D3 representative that they found three additional claimants which Rothstein did not yet know about.

See Razorback Amended Complaint; pp. 16-17; ¶ 48 (emphasis added).

> Additionally, Rothstein used RRA's representation in the Epstein case to **pursue issues and evidence unrelated to the underlying litigation but which was potentially beneficial to lure investors into the Ponzi scheme. For instance, RRA relentlessly pursued flight data and passenger manifests regarding flights Epstein took with other famous individuals knowing full well that no under age [sic] women were on board and no illicit activities took place. RRA also inappropriately attempted to take the depositions of these celebrities in a deliberate effort to bolster Rothstein's lies.**

See Razorback Amended Complaint; page 17; ¶ 49 (emphasis added). All of these deposition subpoenas and discovery requests to which the *Razorback* Complaint refers were served by Edwards at the time that Edwards was a partner at RRA and the lead attorney on the Epstein Cases. *See letter dated July 22, 2009 from Edwards, attached as Exhibit 3 to his deposition of March 23, 2010; dockets and pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB AB*; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; LM v. Jeffrey Epstein,* 09-81092 Marra/Johnson *and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson*; copies of subpoenas; Deposition Transcript of Jeffrey Epstein*, p. 23; line 4-p. 38; line 22*; Initial Complaint*

filed by Epstein dated December 9, 2009, pages 13-20. The allegations in the Razorback Complaint that the Epstein Cases were used to lure investors in the Ponzi Scheme were confirmed by, among other facts[4], the sworn testimony of Scott Rothstein. *Deposition Transcripts of Scott W. Rothstein in In re: Rothstein Rosenfeldt Adler, PA*; 09-34791-RBR and *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19).

On December 1, 2009, also before Epstein filed suit, the Information against Scott Rothstein was filed by the Federal government. The thirty-seven (37) page Information included allegations of Racketeering Conspiracy, Money Laundering Conspiracy, Mail and Wire Fraud Conspiracy, and Wire Fraud. *See Information Charging Scott W. Rothstein in United States of America v. Scott W. Rothstein,* 09-60331-CR-COHN. The Information repeatedly references RRA as the Enterprise with which Rothstein and his co-conspirators were associated and by which they were employed. There were no co-conspirators identified by name; rather, the Information charges that "Rothstein and his conspirators, known and unknown," participated in or conspired to participate in "racketeering activity" to further the Ponzi scheme. Specifically, it alleged that

> The potential investors were told by defendant ROTHSTEIN and other co-conspirators that confidential settlement agreements were available for purchase. The purported settlements were allegedly available in amounts ranging from hundreds of thousands of dollars to millions of dollars and could be purchased at a discount and repaid to the investors at face value over time. Defendant ROTHSTEIN and other co-conspirators utilized the offices of RRA and the offices of other co-conspirators to convince potential investors of the legitimacy and success of the law firm, which enhanced the credibility of the purported investment opportunity. Defendant ROTHSTEIN and other co-conspirators made false and misleading statements and omissions which were intended to fraudulently induce potential investors into purchasing the confidential settlements.

[4] While Epstein's case was pending against Edwards, the Razorback case settled for approximately $170 million dollars.

See Information Charging Scott W. Rothstein in United States of America v. Scott W. Rothstein, 09-60331-CR-COHN, pp. 4-5. It further alleges that

> "Defendant ROTHSTEIN and other co-conspirators utilized funds obtained through the "Ponzi" scheme to supplement and support the operation and activities of RRA, to expand RRA by the hiring of additional attorneys and support staff, to fund salaries and bonuses, and to acquire larger and more elaborate office space and equipment in order to enrich the personal wealth of persons employed by and associated with the Enterprise."

See Information Charging Scott W. Rothstein in United States of America v. Scott W. Rothstein, 09-60331-CR-COHN, p. 12. Scott Rothstein, Edwards's partner at RRA, admitted to and was convicted for these acts that occurred at RRA. He is serving a fifty (50) year sentence. *See Information Charging Scott W. Rothstein in United States of America v. Scott W. Rothstein,* 09-60331-CR-COHN; *Plea Agreement between United States of America and Scott W. Rothstein,* 09-60331-CR-COHN. Several other partners of RRA have also been federally charged and/or convicted, and the US Government has confirmed that the events at RRA are still the subject of an active, ongoing investigation.

In addition, questionable discovery practices in the Epstein Cases, such as those alleged in the *Razorback Complaint*, intensified drastically in the short six (6) months during which Edwards was a partner at RRA. *See pleadings and docket sheet in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB AB*; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson. Edwards admitted that there were between $300,000 and $500,000 in litigation and investigation related expenditures on the Epstein Cases during that short period of time during which he was a partner at RRA, yet Edwards testified that expenditures on the Epstein Cases during the preceding eight months, when the cases were

not at being prosecuted by RRA, may not have even exceeded $25,000. *See Deposition Transcript of Bradley Edwards dated March 23, 2010,* p. 17; lines 6-23; p. 178; lines 11-21. Further, according to Edwards's own privilege log that was filed in the RRA Bankruptcy matter, there were more than eighteen (18) attorneys and staff members at RRA working on the Epstein cases during the time in question. *See dockets and pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB AB*; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*;* and *Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson.; *see also Privilege Log of Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, Dated February 23, 2011* as filed in this matter and in *In re: Rothstein Rosenfeldt Adler, P.A.;* 09-34791-RBR. While Edwards prosecuted the Epstein Cases at RRA, he repeatedly utilized the services of a convicted felon, members of the press, and former federal agents for investigating and prosecuting the cases against Epstein. *See Privilege Log of Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, Dated February 23, 2011* as filed in this matter and in *In re: Rothstein Rosenfeldt Adler, P.A.;* 09-34791-RBR*; Deposition Transcript of Jeffrey Epstein*, p. 34; lines 3-22; *Privilege Log filed by Bradley Edwards as to communications between Edwards and Conchita Sarnoff; electronic communications between Edwards and various members of the press.*

On July 23, 2009, Edwards held a meeting at RRA with **all attorneys** regarding the Epstein Cases. *See Privilege Log of Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, Dated February 23, 2011* as filed in this matter and in *In re: Rothstein Rosenfeldt Adler*, P.A.; 09-34791-RBR. The next day, on July 24, 2009, Edwards filed a two hundred thirty-four (234) page, one fifty-six (156) count federal complaint against Epstein on behalf of a plaintiff, LM, for whom Edwards was already prosecuting a case against Epstein in state

court involving the very same facts alleged in the federal complaint. *See LM v. Jeffrey Epstein*, 09-81092 Marra/Johnson; *Deposition Transcript of Jeffrey Epstein*, p. 23; line 4-p. 38; line 22. The complaint was filed in federal court, but was never served on Epstein.

Also while a partner at RRA, Edwards filed a motion in Federal court in which he requested that the court order Epstein to post a **fifteen million dollar** bond in the *Jane Doe* case that was being touted to the investors. *See Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson; *See Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19). Edwards filed the Initial Motion in June 2009 and filed his Reply to Epstein's Opposition to the Motion on July 23, 2009; the same day as his *all attorneys at RRA* meeting regarding the Epstein Cases referenced above. In his Reply Motion, Edwards discussed, at length, Epstein's net worth. On October 16, 2009, Edwards filed a Notice of Additional Evidence, in which he listed in great detail vehicles, planes, and other items of substantial value purportedly owned by Epstein. *See Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson; *copies of Motion, Response, Reply, and Order.* This was at the exact time, according to Rothstein and the Federal government, that the Ponzi scheme was unraveling. *Depositions taken of Scott W. Rothstein in In re: Rothstein Rosenfeldt Adler, PA*; 09-34791-RBR. The Court rejected Edwards's bond motion, stating:

> Plaintiff's motion is **entirely devoid of evidence** of Defendant's alleged fraudulent transfers. The Court declines to conclude that Defendant is fraudulently transferring assets based upon the adverse inferences relied upon by Plaintiff. Plaintiff's supplemental filing regarding the titles of approximately five of Defendant's vehicles is clearly de minimis, particularly in light of **Plaintiff's repeated characterization of Defendant as a "billionaire."**

See Order in Jane Doe No. 2 v. Epstein Dated November 5, 2009, 08-cv-80119 (emphasis added).

Additionally, as soon as Edwards arrived at RRA, Edwards and his partners set and/or took depositions of three of Epstein's pilots and the "wealthy and influential friends" of Epstein's who were identified to the Ponzi scheme investors; such as former President Bill Clinton, Donald Trump, and David Copperfield, though none of Edwards's clients alleged having any interactions with any of these famous individuals, or ever being on Epstein's plane. *See letter dated July 22, 2009 from Edwards, attached as Exhibit 3 to his deposition of March 23, 2010; Deposition Transcript of Jeffrey Epstein*, p. 36; line 10-p. 37; line 3; *dockets and pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB *AB; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson. Further, not one of these people had any personal knowledge of the claims Edwards was prosecuting against Epstein. *Amended Complaint in Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19); *Deposition Transcripts of Scott W. Rothstein in In re: Rothstein Rosenfeldt Adler, PA*; 09-34791-RBR and *Razorback Funding, LLC, et al. v. Scott W. Rothstein, et al.*, Case No. 09-062943(19). *See also letter dated July 22, 2009 from Edwards, attached as Exhibit 3 to his deposition of March 23, 2010; dockets and pleadings in LM v. Jeffrey Epstein,* 502008CA028051XXXXMB *AB; EW v. Jeffrey Epstein,* 502008CA028058XXXXMB AB*; and Jane Doe v. Jeffrey Epstein,* 08-80893-CIV Marra/Johnson*; copies of subpoenas; Deposition Transcript of Jeffrey Epstein*, p. 23; line 4-p. 38; line 22; p. 89; line 11-p. 93; line 2. This was all part of a deliberate and systematic attack developed by Edwards and RRA, as espoused by a former FBI Agent employed by RRA at the time of the Ponzi

scheme, to "go after those close to Epstein." *See electronic communication from Cara Holmes to Bradley Edwards dated July 29, 2009* ("I think our best bet is to go after those close to Epstein.").

Finally, while Epstein's suit was pending against Edwards, Scott Rothstein was deposed. At his deposition in the morning of December 12, 2011, Scott Rothstein was asked the following about Bradley Edwards:

> Q Brad Edwards, would he have reported illegal activity?
> A I don't know.
> Q Would he have reported trust account defalcations?
> A I don't know.

See Transcript of Deposition of Scott Rothstein dated December 12, 2011, p. 31; lines 1-6. Rothstein's response to the same question when asked about all of the other attorneys with whom Edwards worked, such as Gary Farmer, Seth Lehrman, and Mark Fistos was, unequivocally, "yes" they would have reported illegal activity. *See Transcript of Deposition of Scott Rothstein dated December 12, 2011*, p. 31; lines 7-24. In the afternoon session of his deposition on that same day, Rothstein was again questioned regarding Edwards:

> Q When you were asked - this morning about Brad Edwards you really hesitated. I don't know if you know you did that, You were answering yes no maybe so. On him you really paused.
> A On the question as whether or not he would have turned us in, you mean?
> Q Whether he was a player or whether he was involved and you didn't quite answer.
> A Just because of the way I knew Brad and socialized with him, I did not know that he was at that level . There are certain people, Barry Stone, second he

> found out about it would have absolutely done what was appropriately- supposed to do from an ethical standpoint. And then there were people who I would say would never do that. And then there are people in the middle. I believe Brad Edwards is probably in the middle.

See Transcript of Deposition of Scott Rothstein dated December 12, 2011, p. 61; line 15- p. 62; line 6.

These are the incontrovertible facts that existed at the time Epstein filed his Complaint and the two amendments thereto, and were the facts upon which Epstein relied as requisite cause to assert his causes of action against Rothstein and Edwards. *See Affidavit of Jeffrey Epstein in support of his Motion for Summary Judgment.*

IV. MEMORANDUM OF LAW

A. STANDARD FOR SUMMARY JUDGMENT

Summary judgment is proper if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Volusia County v. Aberdeen at Ormond Beach,* 760 So. 2d 126, 130 (Fla. 2000); *Smith v. Shelton*, 970 So. 2d 450, 451 (Fla. 4th DCA 2007). Likewise, Summary Judgment is mandated when the pleadings, depositions, answers to interrogatories, admissions, affidavits, and other materials in evidence on file show that there are no genuine issues as to any material fact and that the moving party is entitled to judgment as a matter of law. FLA. R.CIV. P. 1.510(c). "Once the movant for summary judgment tenders competent evidence to support his motion, the opposing party must come forward with counter-evidence sufficient to reveal a genuine issue of material fact." *Glasspoole v. Konover Constr. Corp. South*, 787 So. 2d 937, 938 (Fla. 4th DCA 2001) (citing The Fla. Bar v. Mogil, 763 So. 2d 303, 307 (Fla. 2000));

Cohen v. Arvin, 878 So. 2d 403, 405 (Fla. 4th DCA 2004). Here, as established by Edwards's own pleadings and discovery, the litigation privilege completely bars both of Edwards's causes of action, mandating Summary Judgment.

Likewise, a complete failure of proof of any essential element of a party's cause of action necessarily renders all other facts offered by the non-moving party immaterial. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Here, assuming Edwards could overcome the absolute immunity afforded to Epstein pursuant to the litigation privilege Edwards has not, and cannot, prove all of the essential elements of either cause of action he asserts against Epstein, warranting Summary Judgment.

B. SUMMARY JUDGMENT SHOULD BE GRANTED BASED UPON THE LITIGATION PRIVILEGE

Florida's litigation privilege provides to all persons involved in judicial proceedings an absolute privilege from civil liability for actions taken in relation to those proceedings, including for an action for abuse of process or malicious prosecution. *Levin, Middlebrooks, Moves & Mitchell, P.A. v. U.S. Fire Ins. Co.*, 639 So. 2d 606, 608 (Fla. 1994). The litigation privilege "arises immediately upon the doing of any act required or permitted by law in the due course of the judicial proceedings or as necessarily preliminary thereto." *Fridovich v. Fridovich,* 598 So. 2d 65 (Fla. 1992). This absolute immunity afforded to Epstein pursuant to the litigation privilege appears on the face of the Fourth Amended Counterclaim as filed by Edwards. Furthermore, Edwards has not, and cannot, proffer any evidence to overcome the privilege because any and all actions purportedly taken by Epstein, as evidenced by Edwards's own pleadings and offers of proof, occurred during the litigation, barring his claim.

The Florida Supreme Court explained the policy reasons for the litigation privilege and in so doing stated:

> **In balancing policy considerations, we find that absolute immunity must be afforded to any act occurring during the course of a judicial proceeding, regardless of whether the act involves a defamatory statement or other tortious behavior such as the alleged misconduct at issue, so long as the act has some relation to the proceeding.** The rationale behind the immunity afforded to defamatory statements is equally applicable to other misconduct occurring during the course of a judicial proceeding. **Just as participants in litigation must be free to engage in unhindered communication, so too must those participants be free to use their best judgment in prosecuting or defending a lawsuit without fear of having to defend their actions in a subsequent civil action for misconduct.**

Levin, 639 So. 2d at 608 (emphasis added). Additionally, the recent decision of *Wolfe v. Foreman*, 38 FLA. L. WEEKLY D1540 (July 17, 2013), is instructive, as it is directly on point with the facts and law presented in the case at hand. In *Wolfe*, the Third District Court of Appeal affirmed the trial court's order granting a motion for judgment on the pleadings in an abuse of process and malicious prosecution action, finding that the litigation privilege applied to, and barred, **both** causes of action. *Id.* (emphasis added). The court's focus was on "whether the acts alleged 'occurred[ed] during the course of a judicial proceeding.'" *Id.* (citing Levin, 639 So. 2d at 608). The court, relying upon Florida Supreme Court Cases, held that because the acts relating to abuse of process occurred ***after*** the complaint was filed and were ***related to*** the judicial proceedings, the abuse of process cause of action was completely barred. *Id.* (emphasis added); *see also Echevarria, McCalla, Raymer, Barrett & Frappier v. Cole,* 950 So. 2d 380 (Fla. 2007); *Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. U.S. Fire Ins. Co.*, 639 So. 2d 606 (Fla. 1994); *DelMonico v. Traynor,* 2013 WL 535451 (Fla. 2013); *Am. Nat'l*

Title & Escrow of Fla. v. Guarantee Title & Trust Co., 748 So. 2d 1054, 1055 (Fla. 4th DCA 2000) (affirming the trial court's order granting summary judgment in an action for abuse of process on the basis of absolute immunity and on the authority of Levin).

Likewise, in conducting its analysis of the cause of action for malicious prosecution, which was based on the filing of a complaint, the court stated that it is:

> guided and restrained by the broad language and application of the privilege articulated by the Florida Supreme Court in *Levin* and *Echevarria*. In *Levin*, the Florida Supreme Court held that absolute immunity must be afforded to any act occurring during the course of a judicial proceeding . . . so long as the act has some relation to the proceeding." *Levin*, 639 So. 2d at 608. In *Echevarria*, the Court reiterated its broad application of privilege "applies in all causes of action, statutory as well as common law." *Echevarria*, 950 So. 2d at 380-81.

The *Wolfe* court continued, unequivocally stating that:

> It is difficult to imagine any act that would fit more firmly within the parameters of *Levin* and *Echevarria* than the actual filing of a complaint. The filing of a complaint, which initiates the judicial proceedings, obviously "occurs during the course of a judicial proceeding" and "relates to the proceeding . . .
>
> Because the Florida Supreme Court has clearly and unambiguously stated, not once, but twice, that the litigation privilege applies to *all* causes of actions, and specifically articulated that its rationale for applying the privilege so broadly was to permit the participants to be "free to use their best judgment in prosecuting or defending a lawsuit without fear of having to defend their actions in a subsequent civil action for misconduct," we are obligated to conclude that the act complained of here -- the filing of the complaint – is protected by the litigation privilege.

Wolfe v. Foreman, 38 FLA. L. WEEKLY D1540 (July 17, 2013).

Similarly, in the case at hand, Edwards's sole basis for his cause of action for Abuse of Process against Epstein is "**[e]ach and every pleading filed** by and on behalf of EPSTEIN in his prosecution of every claim against EDWARDS, **every motion, every request for production, every subpoena issued, and every deposition taken as detailed on the docket sheet**" as the "perversion of process after its initial service." *See Edwards's*

Fourth Amended Counterclaim (emphasis added). Additionally, in response to Epstein's Interrogatories requesting that Edwards provide an exact and detailed description of any actions, or process, alleged to be abusive and upon which he will rely in prosecution of his case, Edwards stated: "every **pleading, motion, notice and discovery request** served by the Plaintiff on Bradley Edwards in this case." *See Answers to Interrogatories filed June 10, 2011* (emphasis added). When Epstein asked for the dates upon which each and every purported abuse of process occurred, Edwards again replied: "the **date of service of each of the above** as reflected on the Certificate of Service of each." *See Answers to Interrogatories filed June 10, 2011* (emphasis added). Edwards has not pointed to, and indeed cannot point to, one act either *outside of or extrinsic to the litigation,* mandating Summary Judgment under the litigation privilege. Furthermore, as stated by the *Wolfe* court in its analysis of the Plaintiff's malicious prosecution claim, "[i]t is difficult to imagine any act that would fit more firmly within the parameters of Levin and Echevarria than the actual filing of a complaint." *Wolfe v. Foreman*, 38 FLA. L. WEEKLY D1540 (July 17, 2013).

Accordingly, as unequivocally proven by Edwards's own pleadings and discovery responses, the events giving rise to Edwards's two purported claims against Epstein occurred *solely* in the conduct of the litigation, just as occurred in the *Wolfe* case. Edwards has failed to plead or assert any action "outside the context of the judicial proceeding, such as . . . actions extrinsic to the litigation;" rendering his claims "not supported by the material facts necessary to establish the claim or defense," and not "supported by the application of then-existing law to those material facts," warranting Summary Judgment pursuant to the litigation privilege. *Wolfe v. Foreman*, 38 FLA. L. WEEKLY D1540 (July 17,

2013); *American Nat. Title & Escrow of Florida, Inc. v. Guarantee Title & Trust, Co.*, 748 So. 2d 1054, 1056 (Fla. 4th DCA 1999); *see also Montejo v. Martin Memorial Medical Center, Inc.*, 935 So. 2d 1266, 1269 (Fla. 4th DCA 2006).

C. SUMMARY JUDGMENT SHOULD BE ENTERED IN FAVOR OF EPSTEIN ON EDWARDS'S CLAIM FOR ABUSE OF PROCESS

An abuse of process claim requires pleading and proof of the following three elements: 1) an illegal, improper or perverted use of process; 2) an ulterior motive or purpose in exercising the illegal, improper or perverted process; and 3) damage as a result of the conduct. *See, e.g., S&I Invs. v. Payless Flea Mkt.*, 36 So. 3d 909, 917 (Fla. 4th DCA. 2010)*; Valdes v. GAB Robins North America, Inc.*, 924 So.2d 862, 867 (Fla. 3d DCA 2006); *Della-Donna v. Nova Univ., Inc.*, 512 So.2d 1051, 1055 (Fla. 4th DCA 1987). With regard to the first element of the tort of abuse of process, it is axiomatic that under Florida law "the mere filing of a complaint and having process served is not enough to show abuse of process. The plaintiff must prove improper use of process *after it issues*." *S&I Invs.,* 36 So. 3d at 917 (quoting Della-Donna v. Nova Univ., Inc., 512 So. 2d 1051, 1055-56 (Fla. 4th DCA 1987)). *See also Valdes,* 924 So. 2d at 867 ("Valdes' failure to allege any improper willful acts by the appellees during the course of the prior action requires dismissal of the abuse of process claim."); *Yoder v. Adriatico*, 459 So. 2d 449, 450 (Fla. 5th DCA 1984) ("the tort of abuse of process is concerned with the improper use of process *after* it issues") (emphasis added); *Marty v. Gresh*, 501 So. 2d 87, 90 (Fla. 1st DCA 1987) ("[A]buse of process requires an act constituting the misuse of process *after it issues*. The maliciousness or lack of foundation of the asserted cause of action itself is actually *irrelevant* to the tort of abuse of process."); *Cazares v. Church of Scientology of*

Cal., Inc., 444 So. 2d 442, 444 (Fla. 5th DCA 1983) (holding that a cause of action for abuse of process would not lie where the Church alleged no act other than the *wrongful filing* of a lawsuit); *Peckins v. Kaye*, 443 So. 2d 1025, 1026 (Fla. 2d DCA 1986) (counterclaim allegedly causing undue expenditure of time and money did not constitute abuse of process); *McMurray v. U-Haul Co.,* 425 So. 2d 1208, 1209 (Fla. 4th DCA 1983) (same); *Blue v. Weinstein*, 381 So. 2d 308, 311 (Fla. 3d DCA 1980) ("[N]o abuse of the process apart from the complaint is pled and the effort to do so amounts to nothing more than a thinly disguised malicious prosecution claim."); *Wolfe v. Foreman*, 38 Fla. L. Weekly D1540 (July 17, 2013).

As explained in *Della-Donna, Della-Donna v. Nova Univ., Inc.*, 512 So.2d 1051 (Fla. 4th DCA 1987), even the "filing of a lawsuit with the ulterior motive of harassment does not constitute abuse of process." *Id.* at 1055. Likewise, the "**maliciousness or lack of foundation** of the asserted cause of action itself is actually **irrelevant** to the tort of abuse of process." *Marty v. Gresh*, 501 So. 2d 87, 90 (Fla. 1st DCA 1987) (emphasis added). The case of *Johnson Law Group v. Elimadebt USA, LLC*, 2010 U.S. Dist. LEXIS 51079 (S.D. Fla. May 24, 2010), instructive. In *Johnson,* the Plaintiffs alleged that the Defendants committed abuse of process by filing suit "to gain leverage and an improper advantage in a business dispute," and that the prior action included baseless allegations in an attempt to harass plaintiffs. *Id.* at *8. Applying Florida law, the federal court rejected the abuse of process claim absent any allegations of any post-issuance acts constituting abuse of process, and in so doing avowed that "Defendants' alleged filing of a baseless suit, even coupled with alleged knowledge of the complaint's eventual publication, is not an affirmative post-issuance abuse of process." *Id.* at *12.

As unequivocally proven by Edwards's own pleadings and discovery responses, the events giving rise to Edwards's purported claims against Epstein occurred *solely* in the conduct of the litigation. Edwards has failed to point to one action that Epstein has allegedly taken "outside the context of the judicial proceeding, such as . . . actions extrinsic to the litigation." *Suchite v. Kleppin*, 2011 WL 1814665, p.*3 (S.D. Fla. 2011) (citing American Nat. Title & Escrow of Florida, Inc. v. Guarantee Title & Trust, Co., 748 So. 2d 1054, 1056 (Fla. 4th DCA 1999)); s*ee also Montejo v. Martin Memorial Medical Center, Inc.*, 935 So. 2d 1266, 1269 (Fla. 4th DCA 2006). The record evidence as provided by Edwards himself in his pleadings and discovery responses establishes that Edwards solely bases his cause of action for Abuse of Process upon **"[e]ach and every pleading filed by and on behalf of EPSTEIN in his prosecution of every claim against EDWARDS, every motion, every request for production, every subpoena issued, and every deposition taken as detailed on the docket sheet"** as **"perversion of process after its initial service."** *See Edwards's Fourth Amended Counterclaim,* paragraph 16 (emphasis added).

Edwards has not pointed to, and indeed cannot point to, one act *outside of, or extrinsic to, the litigation*. Accordingly, Edwards will not ever satisfy his burden, mandating Summary Judgment. *Levin, Middlebrooks, Moves & Mitchell, P.A. v. U.S. Fire Ins. Co.*, 639 So. 2d 606, 608 (Fla. 1994). *Della-Donna*, 512 So. 2d at 1055; *McMurray v. U-Haul Co.*, 425 So. 2d 1208 (Fla. 4th DCA 1983) (counterclaim for abuse of process was properly dismissed with prejudice although plaintiff alleged that complaint was filed "for a multitude of improper purposes."); *Della-Donna v. Nova University, Inc.*, 512 So.2d 1051, 1056 (Fla. 4th DCA 1987) (defendant entitled to summary judgment based on plaintiff's

failure to prove "any act which constituted misuse of process after it was issued."); *Wolfe v. Foreman*, 38 Fla. L. Weekly D1540 (July 17, 2013). To hold otherwise would ignore Florida law that has repeatedly held that "there is no abuse of process [ ] when the process is used to accomplish the result for which it was created, regardless of an incidental or concurrent motive of spite or ulterior purpose." *S&I Investments v. Payless Flea Market, Inc.*, 36 So. 3d 909, 917 (Fla. 4th DCA 2010), quoting *Bothmann v. Harrington*, 458 So. 2d 1163, 1169 (Fla. 3d DCA 1984). *See also Cazares v. Church of Scientology of Cal.*, Inc., 444 So. 2d 442, 444 (Fla. 5th DCA 1983) ("[A]buse of process requires an act constituting the misuse of process after it issues. The maliciousness or lack of foundation of the asserted cause of action itself is actually irrelevant to the tort of abuse of process.").

As repeatedly noted above, the only claims advanced by Edwards are grounded on the filing or pursuit of litigation, or the pursuit of the judicial process. Accordingly, because Edwards has demonstrated a complete failure of proof of an essential element of his cause of action, all other facts offered by Edwards, the non-moving party, are immaterial, requiring Summary Judgment. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

D. SUMMARY JUDGMENT SHOULD BE ENTERED IN FAVOR OF EPSTEIN ON EDWARDS'S CLAIM FOR MALICIOUS PROSECUTION

Actions for malicious prosecution are "not generally favored." *Central Florida Machinery Co., Inc. v. Williams*, 424 So. 2d 201, 202 (Fla. 2d DCA 1983). A Malicious Prosecution action requires that the plaintiff prove ***each*** of the following six elements: 1) a criminal or civil judicial proceeding was commenced against the plaintiff; 2) the proceeding was instigated by the defendant in the malicious prosecution action; 3) the

proceeding ended in the plaintiff's favor; 4) the proceeding was instigated with malice; 5) the defendant lacked probable cause; and 6) the plaintiff was damaged. *See Doss v. Bank of America, N.A.,* 857 So. 2d 991, 994 (Fla. 5th DCA 2003); *Kalt v. Dollar Rent-A-Car,* 422 So. 2d 1031, 1032 (Fla. 3d DCA 1982) (holding that "[t]**he absence of any one of these elements will defeat a malicious prosecution action.**")(emphasis added); *Adams v. Whitfield,* 290 So. 2d 49, 51 (Fla. 1974); *Alamo Rent-A-Car, Inc. v. Mancusi,* 632 So. 2d 1352, 1355 (Fla. 1994); *Durkin v. Davis,* 814 So. 2d 1246, 1248 (Fla. 2d DCA 2002). Likewise, "if a multi-count complaint contains one count that has not been filed maliciously, then a malicious prosecution action cannot lie against that complaint." *May v. Fundament*, 444 So. 2d 1171, 1172-73 (Fla. 4th DCA 1984). *See also comment to* Rule 4-3.1 of the *Rules Regulating the Florida Bar* ("The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery...."). Accordingly, this suit is barred as a matter of law.

Here, Epstein is entitled to judgment as a matter of law because Edwards cannot satisfy all six elements. First, the requisite of a "bone-fide termination of the original proceeding in favor of the present plaintiff" as delineated by the Florida Supreme Court as one of the legally-mandated elements to bring forth a malicious prosecution claim, has not, nor can it, be satisfied. *See Alamo rent-A-Car v. Mancusi*, 632 So. 2d 1352, 1355 (Fla. 1994). The "original proceeding" to which Edwards refers in his Counterclaim is, in fact, the case Epstein voluntarily dismissed without prejudice, and which Epstein could re-file at any time. A "bona-fide termination" would *prohibit* re-filing. As such, there has not been the required "ending in a manner indicating [Edwards'] innocence of the charges or

allegations contained in the first suit." *See Doss v. Bank of America, N.A.,* 857 So. 2d 991, 994 (Fla. 5th DCA 2003). *See also Yoder v. Adriatico,* 459 So. 2d 449, 451 (Fla. 5th DCA 1984) (stating that the tort of malicious prosecution requires, as an element, the prior termination of that claim and therefore malicious prosecution may not be brought as a counterclaim). Indeed, it is well-settled law that counts of a Complaint that are **dismissed *without prejudice*** are not deemed a "bona fide termination" in that party's favor. "Where dismissal is on technical grounds, for procedural reasons, or any other reason not consistent with the guilt of the accused, it does not constitute a favorable determination." *Union Oil of California v. John Watson,* 468 So. 2d 349 (3d DCA 1985). As stated by the Third District Court of Appeals in addressing the requirements of a bona fide termination:

> It is axiomatic that a plaintiff in a malicious prosecution case must, as an essential element of that cause of action, establish that the prior litigation giving rise to the malicious prosecution suit ended with a "bona fide termination" in that party's favor. This is a fancy phrase which means that **the first suit, on which the malicious prosecution suit is based, ended in a manner indicating the original defendant's (and current plaintiff's) innocence of the charges or allegations contained in the first suit, so that a court handling the malicious prosecution suit, can conclude with confidence, that the termination of the first suit was not only favorable to the defendant in that suit, but also that it demonstrated the first suit's lack of merit.** Therefore, suits that terminate because of technical or procedural reasons or considerations other than the merits of the first suit, are not "bona fide terminations" and will not support a malicious prosecution suit.... Because lawsuits that end as the result of settlements or joint stipulations generally do not clearly demonstrate the lack of merit of the first suit, they are usually found insufficient to constitute "bona fide terminations" of the prior litigation.

Valdes v. GAB Robins North America, Inc., 924 So. 2d 862, 866-867 (Fla. 3d DCA 2006) (emphasis added).

Furthermore, mere evidence of a dismissal or termination of proceedings in and of itself is insufficient to establish this element of the malicious prosecution cause of action.

Instead, the Plaintiff must show the termination of the proceedings to have been "bona fide." *Gatto v. Publix Supermarket, Inc.,* 387 So. 2d 377, 380-81 (Fla. 3d DCA 1980). Here, there is a single Notice of Voluntary Dismissal without Prejudice which is, irrefutably, not a bona-fide termination. *Cline v. Flagler Sales Corp.,* 207 So. 2d 709, 710 (Fla. 3d DCA 1968). Accordingly, in the absence of a "bona fide termination," Edwards's case fails as a matter of law, warranting Summary Judgment.

Next, an indispensable element in the tort of malicious prosecution is the absence of probable cause. *Thompson McKinnon Securities, Inc. v. Light*, 534 So. 2d 757, 759 (Fla. 3d DCA 1988). As the Florida Supreme Court stated in *Goldstein v. Sabella*, 88 So. 2d 910 (Fla.1956):

> Probable cause is defined as "A reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged." Dunnavant v. State, Fla., 46 So.2d 871, 874. This, as well as other acceptable definitions of the term, **indicates that one need not be certain of the outcome of a criminal or civil proceeding to have probable cause for instituting such an action.**

Id. at 911 (emphasis added); *Fee, Parker & Lloyd, P. A. v. Sullivan*, 379 So. 2d 412 (Fla. 4th DCA 1980). Likewise, "[g]ood faith is always an essential element to be considered on the question of probable cause." *Glass v. Parrish*, 51 So. 2d 717, 720 (Fla. 1951).

As irrefutably established by the statement of undisputed facts above, all of which existed *at the time Epstein filed suit*, there was undeniably probable cause to file suit, negating that element of Edwards's malicious prosecution claim. A determination of the existence of probable cause can be decided by the court, as probable cause only becomes a question for the jury when material facts are disputed. *City of Pensacola v. Owens*, 369 So. 2d 328, 329 (Fla.1979). *See also Endacott v. Int'l Hospitality, Inc.,* 910 So. 2d 915, 922

(Fla. 3d DCA. 2005) (when the facts relied upon to show probable cause are undisputed, "the existence or nonexistence of probable cause is a pure question of law to be determined by the court under the facts and circumstances of each case.").

The undisputed facts in this case demonstrate that when Epstein filed his Complaint in December 2009, and throughout the remainder of the time during which the underlying action was pending, Epstein had the requisite cause to file and maintain his lawsuit. *See Statement of Undisputed Facts and exhibits.* The threshold for establishing probable cause in a civil action is extremely low and easily satisfied. *Gill v. Kostroff*, 82 F. Supp. 2d 1354 (M.D. Fla. 2000) (applying Florida law). The standard for probable cause is whether the defendant "reasonably could have believed" that the person in the previous action was guilty of the claims previously alleged, at the time of asserting the claim. *Id.* at 1364 (citing State v. Cote, 547 So. 2d 993, 996 (Fla. 4th DCA 1989); *Wright v. Yurko*, 446 So.2d 1162, 1167 (Fla. 5th DCA 1984) This is an extremely low legal burden, satisfied by the subjective facts as known at the time the underlying action was initiated. *See Wright v. Yurko,* 446 So. 2d 1162, 1166 (Fla. 5th DCA 1984) ("The standard for establishing probable cause in a civil action is extremely low and easily satisfied."). "A determination of whether probable cause exists is based on the facts known by the defendant in the malicious prosecution action at the time the underlying action was initiated, not some later point in time." *Gill*, 82 F.Supp. 2d at 1364 (citing United States v. Irurzun, 631 F.2d 60, 62 (5th Cir.1980)). Here, the allegations in Epstein's lawsuit against Edwards, coupled with the irrefutable facts surrounding the underlying "Epstein Cases" and what was occurring at RRA during the time in question as delineated in the undisputed facts above,

undeniably establish that Epstein had the requisite cause, and a good faith basis upon which to file suit against Rothstein and Edwards, warranting Summary Judgment.

CONCLUSION

Edwards has no evidence to support his causes of action at this late juncture because such evidence does not exist. Accordingly, Summary Judgment must be granted for Epstein because there is no material issue of fact to resolve and Epstein is therefore entitled to judgment as a matter of law. Accordingly, in reliance upon the foregoing arguments and authorities, Plaintiff/Counter-Defendant Jeffrey Epstein respectfully requests that the Court grant his Motion for Summary Judgment.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served, via electronic service, to all parties on the attached service list, this September 24, 2013.

/s/ Tonja Haddad Coleman
Tonja Haddad Coleman, Esq.
Florida Bar No.: 176737
Tonja Haddad, PA
5315 SE 7th Street
Suite 301
Fort Lauderdale, Florida 33301
954.467.1223
954.337.3716 (facsimile)
Attorneys for Epstein

SERVICE LIST

CASE NO. 502009CA040800XXXXMBAG

Jack Scarola, Esq.
jsx@searcylaw.com; mep@searcylaw.com
Searcy Denney Scarola et al.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Jack Goldberger, Esq.
jgoldberger@agwpa.com; smahoney@agwpa.com
Atterbury, Goldberger, & Weiss, PA
250 Australian Ave. South
Suite 1400
West Palm Beach, FL 33401

Marc Nurik, Esq.
1 East Broward Blvd.
Suite 700
Fort Lauderdale, FL 33301

Bradley J. Edwards, Esq.
brad@pathtojustice.com
Farmer Jaffe Weissing Edwards Fistos Lehrman
425 N Andrews Avenue
Suite 2
Fort Lauderdale, Florida 33301

Fred Haddad, Esq.
Dee@FredHaddadLaw.com
1 Financial Plaza
Suite 2612
Fort Lauderdale, FL 33301

Tonja Haddad Coleman, Esquire
Tonja@tonjahaddad.com; efiling@tonjahaddad.com
Law Offices of Tonja Haddad, P.A.
315 SE 7th Street, Suite 301
Fort Lauderdale, FL 33301
Attorneys for Jeffrey Epstein