

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).

**NON-PARTY PODHURST ORSECK, P.A.'S MOTION FOR PROTECTIVE ORDER
AND STAY OF ORDER**

Non-Party Podhurst Orseck, P.A., ("Podhurst") pursuant to Fla. R. Civ. P. 1.280(c) and 1.410(c), moves for a protective order in Podhurst's favor as to the Notice of Deposition Duces Tecum of Records Custodian of Bankruptcy Trustee Herbert Stettin, Plaintiff Epstein's second Trustee discovery request for additional email production from Defendant Bradley Edwards ("Edwards") in the above-referenced matter, and in the alternative, asks this Court to stay the requested production until such time as this motion can be heard,. The grounds for this motion are as follows:

1. Podhurst, has learned that Jeffrey Epstein has issued a Subpoena Duces Tecum for, *inter alia*, the e-mails of Edwards while he was employed at Rothstein, Rosenfeldt and Adler, P.A. ("RRA").

Podhurst Orseck, P.A.

2. Upon information and belief this request includes and, if not protected, would allow Jeffrey Epstein to obtain numerous communications between Edwards and attorneys from Podhurst that are subject to the attorney work product doctrine, contain attorney-client privileged confidential information and/or are, subject to the common interest privilege (often called the joint defense privilege)¹. These emails were generated while Edwards was working in conjunction with Podhurst in litigation on behalf of their respective clients who had claims against Jeffrey Epstein.

3. On the grounds of privilege as set forth in paragraph 2 above, movants object to the production of these e-mails, many of which are believed to contain sensitive and confidential information, as well as thoughts, legal research and strategies pertaining to litigation by Podhurst's clients against Jeffrey Epstein.

4. Upon information and belief this production would not only be so voluminous as to be burdensome to review but it is unlikely that Edwards or other counsel with whom he had e-mailed – much less the Trustee – would permit Podhurst to conduct such review due to otherwise privileged matter unrelated to Podhurst contained within the body of documents.

¹ The joint defense doctrine, also known as the “common interests” doctrine or the “pooled information” doctrine, establishes an exception to the general rule that the attorney-client privilege is waived upon the voluntary disclosure of the privileged information to a third party. The joint defense doctrine allows parties who share unified interests to exchange privileged information to adequately prepare their cases without losing the protection afforded by the attorney-client privilege. Under this doctrine, attorneys for clients sharing common litigation interests may exchange information freely among themselves without fear that, by their exchange, they will forfeit the protection of the attorney-client privilege. Axiomatic to the “joint defense” doctrine is the existence of multiple parties and also multiple attorneys. *In re Indiantown Realty Partners, Ltd. Partnership*, Bkrtcy. S.D. Fla. 2001, 270 B.R. 532. See also, *Cone v. Culverhouse*, 687 So. 2d 888 (Fla. Dist. Ct. App. 2d Dist. 1977); *Visual Scene, Inc. v. Pilkington Bros., plc.*, 508 So. 2d 437 (Fla. Dist. Ct. App. 3d Dist. 1987); *Springer v. United Services Auto. Ass'n*, 846 So. 2d 1234 (Fla. Dist. Ct. App. 5th Dist. 2003).

5. Courts have broad discretion to limit or prohibit discovery in order to protect a person from annoyance, embarrassment, oppression, or undue burden or expense. *Rasmussen v. South Florida Blood Service*, 500 So. 2d 533, 555 (Fla. 1987).

6. Fla. R. Civ. P. 1.280(c) provides that a trial court may enter an order to protect the person from whom discovery is sought, from “. . . undue burden or expense.”

7. Upon information and belief Jeffrey Epstein has made prior voluminous discovery requests in this matter, including 27,000 pages of e-mails, which were produced, despite Edward’s contention that nearly all of them were entirely irrelevant to Epstein’s putative case.

8. We have been informed that Epstein has requested an additional 10,214 pages of e-mail messages generated and/or received by Edwards during the time in which he was employed at RRA to be produced, including the referenced privileged communications between Edwards and Podhurst attorneys.

9. During the period that the subject communications occurred, Edwards and Podhurst represented about two dozen young women who had been molested and criminally subjected to prostitution by Jeffrey Epstein. The e-mails between Edwards and the Podhurst contain communications regarding attorneys’ thoughts, legal research, planning and exploration of strategic alternatives in regard to their similar representation of victims of Plaintiff Jeffrey Epstein who had similar claims and experiences. Judge Marra consolidated all discovery matters in these related cases filed in front of Judge Marra of the United States District Court in and for the Southern District of Florida.

10. We have been informed that due to their volume and their being in the custody of the Trustee in the bankruptcy action involving Scott Rothstein and RRA, these documents have not been Bates stamped and entered in this matter on any privilege log, as a result of which

Plaintiff Jeffrey Epstein argues they may be subject to production. Non-party Podhurst, requests that this Court enter an order protecting these voluminous, irrelevant, superfluous, confidential and privileged e-mails, or that the Court stay production until such time as Podhurst may be heard on this issue.

11. Podhurst adopts all applicable portions of Edwards' Motion for Protective Order, Objections to Cancelled Notice of Deposition Duces Tecum of Records Custodian of Trustee Herbert Stettin [January 20, 2011], and Motion for Appointment of Robert Carney as Special Master, filed on February 24, 2011.

12. The undersigned hereby certifies that she has conferred regarding the relief sought by this motion with Jack Goldberger, Esq., counsel for Plaintiff, Jeffrey Epstein, who is unable to agree to Podhurst's request for protection.

WHEREFORE, in light of the foregoing, movant non-party, Podhurst Orseck, P.A., asks this Court to issue an order of protection, or in the alternative, an order staying proceedings until such time as this non-party's motion has been heard by the Court.

DATED this 31st day of March, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 31st day of March, 2011, to all counsel/parties listed on the attached Service List.

Respectfully submitted,

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