

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

CIVIL DIVISION -AG

CASE NO. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

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

Defendants/Counter-Plaintiffs.

/

MOTION FOR ENTRY OF ORDER ON MOTION FOR SUMMARY JUDGMENT

COMES NOW, the Counter-Defendant, JEFFREY EPSTEIN, by and through his undersigned attorney, and requests that this Court enter the proposed Order on Motion Summary Judgment attached hereto and as good grounds would show:

1. A hearing was held before the Court on January 27, 2014 regarding EPSTEIN's Motion for Summary Judgment.
2. The Court granted EPSTEIN's motion.
3. The Court directed the undersigned attorney to prepare a proposed order and directed that certain language be included in the order.
4. The undersigned obtained a transcript of the hearing and followed the direction of the court in preparing the proposed order attached hereto as Exhibit "A".
5. The attorney for Counter-Plaintiff has objected to the proposed order and suggested additional language to which Counter-Defendant cannot agree.

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6. It therefore becomes necessary that the court review portions of the transcript and the proposed order and enter an order that the Court deems appropriate.

WHEREFORE, Counter-Defendant, JEFFREY EPSTEIN, requests that this Court enter an order regarding its ruling on Counter-Defendant's Motion for Summary Judgment.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by eservice to those listed on the attached Service List, this 4th day of February, 2014.

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CIVIL DIVISION -AG

CASE NO. 502009CA040800XXXXMB

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

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

Defendants/Counter-Plaintiffs.

ORDER GRANTING COUNTER-DEFENDANT,
JEFFREY EPSTEIN'S, MOTION FOR SUMMARY JUDGMENT

THIS CAUSE came before the court on Counter-Defendant, JEFFREY EPSTEIN'S, Motion for Summary Judgment regarding the Fourth Amended Counterclaim filed herein by Counter-Plaintiff and the court having reviewed the file and applicable precedent, having heard argument of counsel and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED:

1. Mr. EPSTEIN filed suit against Mr. EDWARDS and Mr. EDWARDS thereafter filed a Counterclaim against Mr. EPSTEIN. Mr. EPSTEIN later dismissed his Complaint without prejudice. The Counterclaim proceeded and went through several amendments. The Fourth Amended Counterclaim at issue here contains two causes of action. Those causes of action are abuse of process and malicious prosecution.

2. The issue before the court is whether the absolute litigation privilege applies to causes

of action for both abuse of process and malicious prosecution.

3. The court has reviewed Levin, Middlebrooks, Moves & Mitchell, v. U.S. Fire Ins. Co., 639 So.2d 606, 608 (Fla. 1994), Echevarria, McCalla, Raymer, Barrett & Frappier v. Cole, 950 So2d 380 (Fla. 2007) and Wolfe v. Foreman, 38 Fla. L. Weekly D1540 (July 17, 2013). The court finds these cases to be not only persuasive but binding. The court is bound by the holding of Levin, that all actions occurring during the course of a judicial proceeding, so long as the act has some relation to the proceeding, are absolutely privileged. This proposition was reaffirmed in Echevarria. The Third District Court of Appeal in Wolfe, quoting in large part from Echevarria, found specifically that the litigation privilege applies to malicious prosecution claims and acts occurring during the course of a judicial proceeding, if those acts bear some relation to the proceeding.

4. During the hearing on this matter, it was conceded by counsel for Counter-Plaintiff that all of the allegations made in both the abuse of process claim and the malicious prosecution claim are of acts occurring during the course of a judicial proceeding and bear some relation to the proceeding.

5. The court therefore finds that the absolute privilege applies to both the abuse of process claim and malicious prosecution claims made herein.

6. The Counter-Plaintiff urged the court that Olson v. Johnson, 961 So.2d 356 (Fla. 2d DCA 2007), is in conflict with Wolfe and that this conflict would allow this court to “peruse” other issues. However, the court finds Olson inapplicable because that case dealt with extra judicial false statements that were made to a police officer. The statements were not made during the course of a

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judicial proceeding and were therefore not privileged.

For the reasons stated above, the Motion for Summary Judgment is granted.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, this _____
day of _____, 2014.

CIRCUIT COURT JUDGE

Copies furnished to those on the attached service list.

NOT A CERTIFIED COPY

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