

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendants.

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

CASE NO.: 502009CA040800XXXXMBAG

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S MOTION FOR AN
ORDER OF PROTECTION AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.280(c) of the *Florida Rules of Civil Procedure*, hereby requests that this Court enter an Order of Protection from Defendant/Counter-Plaintiff Bradley Edwards's ("Edwards") January 21, 2015 Notice of Taking Deposition (videotaped) of Jeffrey Epstein and Edwards's January 21, 2015 Requests for Production to Epstein. In support thereof, Epstein states:

INTRODUCTION

On May 19, 2014, this Court granted Epstein's Motion for Summary Judgment as to both counts of Edwards's Complaint. This Court entered Final Judgment in favor of Epstein on May 27, 2014. On June 2, 2014, Epstein filed his Motion for Costs and Attorneys' Fees pursuant to §768.79 of the *Florida Statutes* and Rule 1.442 of the *Florida Rules of Civil Procedure*. This Motion is still pending, but all issues were fully briefed by the parties as requested by this Court as of January 12, 2015. Epstein's entitlement to Costs and Attorneys' Fees is a question of law for the Court, as it is the Court which must determine whether Epstein's Proposal for Settlement and its attached release agreement were in compliance with the applicable Florida Statute and Florida

Rule of Civil Procedure. There is no basis in law pursuant to which Edwards may now seek discovery from Epstein regarding his Proposal for Settlement.

However, notwithstanding that Final Judgment was entered in this matter, and that Epstein's entitlement to costs and attorneys' fees has not yet been decided, Edwards served a Notice of Taking Deposition (videotaped) of Jeffrey Epstein and a Request for Production to Epstein on January 21, 2015. As demonstrated more fully below, Edwards cannot engage in discovery practice while this matter is in its current procedural posture, and an Order of Protection in favor of Epstein is required.

MEMORANDUM OF LAW

Rule 1.280(c) of the *Florida Rules of Civil Procedure* affords the Court discretion to grant protective orders "for good cause shown" and "to protect a party from annoyance embarrassment, oppression, or undue burden or expense that justice requires." FLA. R.CIV. P. 1.280(c) (2012); *Orlando Sports Stadium, Inc. v. Sentinel Star Company*, 316 So. 2d 607, 610 (Fla. 4th DCA 1975); *Gross v. Security Trust Company*, 453 So. 2d 944, 945 (Fla. 4th DCA 1984). Upon the showing of good cause, the court may protect the party by issuing an order "that discovery not be had." FLA. R.CIV. P. 1.280(c) (2012).

It is well settled law that "[a]side from Rule 1.290(b), which is designed to preserve testimony, and Rule 1.560 governing depositions in aid of execution, discovery under the Florida Rules of Civil Procedure is limited to 'pending actions.'" *Berger v. Riverwind Parking, LLP*, 836 So. 2d 1073, 1075 (Fla. 5th DCA 2003); FLA. R.CIV. P. 1.280(b). Likewise, "once the final judgment is entered, the need for discovery is over." *Id.* While post-judgment discovery is generally permitted by the courts before an evidentiary hearing is held on the *amount* of an award of costs and attorneys' fees,

Epstein submits that because the Court has yet to rule on his entitlement to his costs and attorneys' fees, Edwards cannot seek irrelevant discovery at this post-judgment stage of litigation. In the case at hand, Edwards is impermissibly engaging in post-judgment discovery practice; seeking both a deposition of Epstein and responses to Requests for Production. The only post-judgment issue pending at this time before the Court is solely a question of law; to wit: whether Epstein's Proposal for Settlement and its attached release agreement were, on their face, in compliance with §768.79 of the *Florida Statutes*, Rule 1.442 of the *Florida Rules of Civil Procedure*, and applicable case law. Accordingly, Edwards's Notice of Taking Deposition and Requests for Production must be stricken or an Order of Protection entered¹.

Furthermore, even assuming that Edwards had a legal basis upon which to rely in seeking discovery and deposition testimony from Epstein at this juncture of the case, the information sought by Edwards is irrelevant to both the issue of the validity of Epstein's Proposal for Settlement and the issue of the amount of Costs and Attorneys' Fees to which Epstein would be entitled. Specifically, Edwards's discovery requests are seeking information regarding "expenditures directed at overcoming, counter-balancing, or suppressing adverse media attention focused on any criminal charges lodged" against Epstein and other similar information that is indisputably not germane to any issue upon which post-judgment discovery may be had. Accordingly, there is a requisite showing of good cause for the Court to protect Epstein by issuing an Order "that discovery not be had." FLA. R.Civ. P. 1.280(c) (2014).

¹ Because Final Judgment has already been entered, Epstein is cognizant of the fact that this Court may not be permitted to enter any Orders related to these improper discovery requests filed by Edwards, but files this Motion only in direct response to Edwards's actions and to preserve any rights or recourse he may have regarding same.

CONCLUSION

For all of the reasons above, and in reliance upon the case law cited above, Epstein respectfully requests that this Court enter an Order of Protection in favor of Epstein, and such further and other relief as this Court deems just and proper.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this January 28, 2015.

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