

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

vs.

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

Defendant,

**RESPONSE IN OPPOSITION TO EPSTEIN'S MOTION TO COMPEL E.W. TO
ANSWER QUESTIONS RELATING TO THE CRIME VICTIMS' RIGHTS ACT AND
TO REOPEN DISCOVERY**

Counter-Plaintiff, Bradley J. Edwards, by and through undersigned counsel, hereby files this Response in Oppositions to Jeffrey Epstein's Motion to Compel E.W. to Answer Questions Relating to the Crime Victims' Rights Act and to Reopen Discovery, and as grounds therefor states as follows:

1. Edwards contends that among Epstein's motives for filing and continuing this baseless and malicious lawsuit was Epstein's desire to intimidate Edwards into abandoning his clients' claims in the Crime Victim's Rights Act ("CVRA") proceeding. As the Court is aware, one potential outcome of the CVRA proceeding is the invalidation of Epstein's Non-Prosecution Agreement ("NPA"), which shields Epstein from criminal liability in the Southern District of Florida.

2. Thus, relevant and material discovery as to the CVRA proceeding is limited to what **Epstein knew**, from the time he commenced this lawsuit in 2009 until voluntarily dismissing his claims in 2012, regarding the following:

- a. (1) The existence of the NPA;
- b. (2) The fact that the NPA shielded Epstein from criminal liability in the Southern District of Florida;
- c. (3) The existence of the Crime Victim's Rights Act proceeding to set aside the NPA; and
- d. (4) The fact that the potential invalidation of the NPA exposed Epstein to significant jail time.

3. Epstein, however, is attempting to question one of his victims regarding what she knew related to the CVRA proceeding. Did E.W. have the prosecutor's cell phone number? Did E.W. receive a victims' notification letter? How many times did E.W. meet with the Federal Bureau of Investigation? None of these questions have any relevance to the above-described topics and, most importantly, Epstein did not know the answer to these questions in 2009, when he initiated his malicious lawsuit, or from 2009 through 2012, when he continued his malicious prosecution. These questions therefore have no relevance whatsoever to whether Epstein had probable cause to initiate or continue his claim against Bradley Edwards, or whether he did so with malice. They were directed solely at taking improper discovery in the ongoing CVRA proceeding without proper notice to all counsel in that proceeding.

4. Moreover, although the subject Motion for Protective Order was filed on October 26, 2017, approximately one (1) month before the close of discovery, Epstein failed to take any

action to set the motion for hearing or to compel E.W. to answer the questions proffered on the record. Epstein has therefore waived his right to compel any supplemental testimony regarding these irrelevant topics.

5. For the foregoing reasons, as well as those stated by Jack Scarola, Esq. on the record at the October 12, 2017 deposition of E.W., the Motion to Compel should be denied.¹

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 12th day of JANUARY, 2018.



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¹ Edwards also incorporates by reference the arguments contained in his Response in Opposition to Epstein's Motion to Reopen Discovery to Take Depositions, a copy of which is attached hereto as Exhibit 'A'.

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Defendant,

/

**RESPONSE IN OPPOSITION TO EPSTEIN'S MOTION TO
REOPEN DISCOVERY TO TAKE DEPOSITIONS**

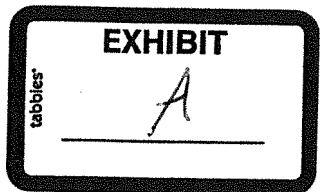
Counter-Plaintiff, Bradley J. Edwards, by and through undersigned counsel, hereby files this Response in Oppositions to Jeffrey Epstein's Motion to Reopen Discovery to Take Depositions, and as grounds therefor states as follows:

The Motion Fails to Meet the Court's Requirements to Reopen Discovery

1. On November 27, 2017, the Court entered its Order on Motion to Reconfirm Existing Pre-Trial Deadlines¹, in which the Court ruled that additional discovery will only be permitted if "the discovery requests are impacted by the Court's rulings on motions currently pending to be heard on November 29th, December 6th and 7th." At the hearing preceding the Order, the Court outlined the standard by which any such additional discovery requests would be considered:

So what I am going to do is this. Because there are issues that need to be addressed -- and I'm hoping I will have orders out as soon as possible after those hearings are done -- is that I am going to require motions to be filed

¹ A copy of the Court's Order is attached hereto as Exhibit 'A'.



on a discovery issue-by-discovery issue, deposition by deposition, so as to find out several things. One, is the need to take that deposition and whether that need has been either clarified or required by virtue of a court order that will be entered subsequently to the commencement of Wednesday's hearings and thereafter on those days that I provided. If it cannot be demonstrated to the Court that these witnesses need to be taken solely as a result the Court's ruling, then those requests will be denied, because, again, we were set to try the case next week.

So 20 some-odd deposition, unless they can be proven and shown to the Court as being required as a result of the rulings of the Court, will not be entertained. They should have been done before. And if not done before, I will need a reason for that as well.

11/27/2017 Hearing Tr. at 12:11-25 and 13:1-6, 17-23.²

2. Thus, Epstein has the burden to establish that (a) the new depositions are required solely as a result of a recent Court ruling, and, if so, (2) that the depositions could not have been taken before. Epstein's motion clearly fails to meet either requirement, and therefore the motion should be denied.³

A. Epstein Has Been Aware of the Relevance of the Testimony of These Witnesses for Years and Could Have Deposed Them Long Before the Discovery Cutoff.

3. As an initial matter, L.M. was a named defendant in this lawsuit filed by Epstein. Allegations regarding L.M.'s role in the Ponzi scheme and her fabricated claim are replete

² Excerpts of the November 27, 2017 hearing transcript are attached as Exhibit 'B'.

³ Perhaps understanding the Motion's futility, Epstein spends the first four pages arguing about Edwards' damages and, incredibly, accusing Edwards of using L.M., E.W. and Jane Doe for his own personal gain. As Epstein is all too aware, the only person who has forced these victims to do anything against their will is Epstein, and the suggestion that these victims have by now "put behind them" the atrocious sexual misconduct committed against them by Epstein is yet another example of Epstein's indifference to the permanent damage he inflicted on his child victims.

throughout Epstein's Initial Complaint. Any suggestion that L.M.'s deposition is needed "solely" as a result of the Court's December 5, 2017 ruling is therefore absurd.

4. Jane Doe is also named repeatedly throughout Epstein's malicious and baseless Initial Complaint, and she was also alleged to be pursuing claims against Epstein that had "minimal" value. Edwards' first witness list, filed June 30, 2010, listed all named victims of Jeffrey Epstein as fact witnesses for trial, which of course included Jane Doe. As such, any argument that Jane Doe's deposition is needed "solely" as a result of a recent Court ruling is also absurd.

5. Rather, Epstein was obviously well-aware of the relevance of the testimony of L.M. and Jane Doe long before the Court's recent rulings. There is no need, however, to accept Edwards' argument to that effect. Rather, the Court need only consider the fact that in August 2017, Epstein requested and received dates to take L.M. and Jane Doe's depositions in early October 2017 (before the discovery deadline). Epstein, however, voluntarily chose not to set either witness for deposition.

6. Thus, Epstein clearly fails to meet the first requirement enunciated by the Court, that the depositions be needed "solely" as a result of a recent ruling, and the Motion should be denied on those grounds alone.

B. Epstein's Prior Counsel Failed to Set L.M. and Jane Doe's Depositions, Despite Requesting and Receiving Dates for Their Depositions in August 2017.

7. The Motion should further be denied because, although Epstein could have taken these depositions months ago, he voluntarily chose not to so.

8. Specifically, on August 2, 2017, Epstein's prior counsel requested deposition dates for L.M. and Jane Doe (the email also sought the depositions of E.W. and Virginia Roberts). That same day, undersigned counsel's office responded via email and stated that dates were available in early October, and to call to clear specific dates for these depositions.

9. On August 3, 2017, Edwards, as counsel for L.M., E.W. and Jane Doe, stated that he would accept service of subpoenas for his clients' depositions.

10. On August 14, 2017, after some back and forth email exchanges, Epstein's prior counsel instructed undersigned counsel's office to hold 10/5, 10/11 and 10/12 for depositions.

11. On August 16, 2017, Edwards confirmed that he would make L.M., E.W., and Jane Doe available on any date.

12. Epstein then set Virginia Roberts' deposition for 10/5 and E.W.'s deposition for 10/12. No depositions were set for 10/11.

13. On September 26, 2017, Epstein unilaterally cancelled the 10/5 deposition of Virginia Roberts after Ms. Roberts had travelled to New York from Australia solely for purposes of sitting for the deposition.

14. Epstein failed to set L.M. and Jane Doe for deposition on 10/5, despite Edwards' notice that he could make them available on that date.

15. As such, no depositions were taken on 10/5

16. Epstein also failed to take any depositions on 10/11.

17. Instead, Epstein used only 10/12 to take the deposition of E.W.

18. Thus, when the Court asks Epstein's counsel for the reason why L.M. and Jane Doe's depositions have not been taken, the answer is quite simple: because Epstein chose not to take them.

C. Epstein's Current Counsel Chose Not to Set Any Depositions Prior to the Close of Discovery.

19. After Epstein's prior counsel failed to use either the 10/5 or 10/11 dates to take the depositions of L.M. and Jane Doe, his current counsel made efforts to set witness depositions prior to the November 24, 2017 discovery deadline.

20. Specifically, on November 13, 2017, Epstein's counsel requested deposition dates for a number of attorneys who had represented other Epstein victims.

21. Notably, however, Epstein's current counsel failed to request new deposition dates for either L.M. or Jane Doe.

22. On November 13, 2017, undersigned counsel's office advised Epstein's counsel that it was available for depositions each day, apart from Thanksgiving, until the discovery cutoff on November 24th. Thus, Epstein could have set depositions on 11/14, 11/15, 11/16, 11/17, 11/18, 11/19, 11/20, 11/21, 11/22, or 11/24.

23. Epstein failed to set any depositions, whether of the attorney witnesses or of L.M. and Jane Doe, on the dates given.

24. In total, Epstein therefore declined to use twelve (12) days provided by undersigned counsel to schedule the depositions of L.M. and Jane Doe prior to the discovery cutoff. As such, the only reason these witnesses have not been deposed, witnesses whose importance

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Epstein has been aware of for years, is because Epstein affirmatively chose not to depose them. Epstein's current remorse over that litigation tactic certainly fails to meet the Court's requirements to reopen discovery, particularly on the eve of trial in this eight (8) year old case.

Conclusion

For the foregoing reasons, Epstein's Motion to Reopen Discovery should be denied.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 12th day of JANUARY, 2018.



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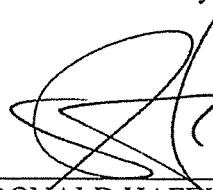
ORDER ON MOTION TO RECONFIRM EXISTING PRETRIAL DEADLINES

AND RE PRETRIAL STIPULATION

THIS CAUSE having come to be considered upon Bradley J. Edwards' MOTION TO
RECONFIRM EXISTING PRETRIAL DEADLINES, and the Court having reviewed the file and
being fully advised in the premises, it is hereby,

ORDERED and ADJUDGED: That the motion is granted to the
extent that wholesale additional discovery will not be
permitted but individual discovery requests may be allowed on a *
DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, this 27

day of Nov., 2017.


DONALD HAFFELE
CIRCUIT JUDGE

** matter by matter basis and only of the discovery requests were
impacted by the court's rulings on motions currently
pending & to be heard on Nov. 29, Dec. 6 & 7, 17. Form pre-
trial stipulation shall be prepared and filed no later than
January 15, 17.*

Ex. A

**Edwards adv. Epstein
Case No.: 502009CA040800XXXXMBAG
Order on Motion to Reconfirm Existing Pretrial Deadlines**

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JEFFREY EPSTEIN,
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SCOTT ROTHSTEIN, individually,
BRADLEY EDWARDS, individually,

Defendants/Counter-Plaintiffs.

TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: Monday, November 27th, 2017
TIME: 9:01 a.m. - 9:27 a.m.
PLACE 205 N. Dixie Highway, Room 10C
West Palm Beach, Florida
BEFORE: Donald Hafele, Presiding Judge

This cause came on to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

Sonja D. Hall
Palm Beach Reporting Service, Inc.
1665 Palm Beach Lakes Boulevard, Suite 1001
West Palm Beach, FL 33401
(561) 471-2995

1 APPEARANCES:

2 For Plaintiff:

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5 By KARA BERARD ROCKENBACH, ESQUIRE

6 For Bradley Edwards:

7 SEARCY, DENNEY, SCAROLA, BARNHART &
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8 2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
9 By JACK SCAROLA, ESQUIRE
By DAVID P. VITALE, JR.

1 MS. ROCKENBACH: Good morning, Your
2 Honor.

3 MR. SCAROLA: Good morning.

4 THE COURT: Good morning.
5 Thank you for sending me the legal
6 issues that need to be addressed and the
7 anticipated amount of time that you are
8 going to need. I appreciate that.

9 This motion I have before me is to
10 reconfirm and Edwards' opposition to the
11 existing pretrial deadlines, which were set
12 in contemplation of the case going to trial
13 in December.

14 MR. SCAROLA: Almost, sir.

15 THE COURT: Pardon?

16 MR. SCAROLA: Almost. Your Honor has
17 it backwards. It is Mr. Edwards who is
18 seeking to reconfirm the deadline.

19 Mr. Epstein is objecting to that
20 reconfirmation.

21 THE COURT: My error. Sorry about
22 that.

23 MR. SCAROLA: That's all right. A
24 mistake that we all make repeatedly.

25 THE COURT: Mr. Edwards is seeking to

1 confirm or reconfirm the existing deadlines,
2 Mr. Epstein is objecting. Okay.

3 All right. So I guess the place to
4 start is from Mr. Edwards' standpoint as the
5 punitive plaintiff here. Is there any
6 discovery that's necessary from your
7 standpoint at this juncture?

8 MR. SCAROLA: No, sir.

9 THE COURT: Ms. Rockenbach?

10 MS. ROCKENBACH: Yes, Your Honor. If
11 you recall, your order that granted the
12 motion to continue sets forth in it -- which
13 is November 14th -- that both parties don't
14 know how the Court will ultimately rule on
15 critical issues, which will require counsel
16 to try to strategize and plan their
17 respective cases under extreme uncertainty
18 and duress. And that was a quote from your
19 order, which you correctly identified.

20 And as a result, Your Honor opened up
21 additional days on your calendar so that we
22 could hear those incredibly significant
23 dispositive legal motions that are pending.

24 We are going to be before the Court on
25 Wednesday, and then next week, on

1 Keeping these deadlines in place,
 2 freezing this case in the position that it
 3 was in on the eve of trial and ready to be
 4 tried is the only way to prevent those kinds
 5 of last-minute delays.

6 There has been an avalanche of motions
 7 that have already been filed, but we have
 8 plenty of time now to dispose of those
 9 motions. And if there is a reasonable basis
 10 upon disposition of those motions for Your
 11 Honor to consider on a case-by-case basis --
 12 and that's the only way it should be done,
 13 an extension of a deadline or an exception
 14 to a deadline -- then Mr. Epstein, through
 15 his very able counsel, has every means by
 16 which to present those issues on a
 17 case-by-case basis to the Court. But the
 18 deadlines previously set should be enforced.

19 Thank you, Your Honor.

20 MS. ROCKENBACH: Your Honor, I want to
 21 try this case on March 13th.

22 THE COURT: We are going to try the
 23 case on March 13th.

24 MS. ROCKENBACH: There's no question
 25 that both parties are respecting this

1 was in Europe and that was the date that was
 2 provided. He contradicts Mr. Edwards'
 3 answers to interrogatories about damages.

4 So this case -- there are no additional
 5 motions to be filed. Your Honor has them
 6 all, in addition to the responses. What we
 7 do need is to proceed in an orderly fashion
 8 and allow these deadlines to be reset in
 9 conformance with a standard pretrial order
 10 for a March 13th trial setting.

11 THE COURT: Thank you.

12 My intention was not to open the
 13 floodgates to allow wholesale discovery, as
 14 pointed out, and not -- it really wasn't so
 15 much the Court's schedule, but respective
 16 counsel's vacation schedules, which took up
 17 essentially a month of time where I wasn't
 18 able to set anything substantively during
 19 that period and had to thereafter wait.

20 Because there is time that opens up and
 21 I know -- or at least counsel that
 22 represented Mr. Epstein in the past -- they
 23 typically were amenable to setting things
 24 and getting hearings set if the Court had
 25 time open. Mr. Scarola and his office have

1 Court's order on November 17th setting that
 2 specifically. But as Your Honor has
 3 identified, these critical issues have yet
 4 to be ruled on by this Court.

5 And Mr. Scarola makes my point in
 6 raising the three claimants that Mr. Edwards
 7 previously represented and settled their
 8 cases. That's a very significant issue that
 9 this court will rule on on Wednesday to
 10 determine whether their testimony is even
 11 relevant.

12 I see that we're getting a preview
 13 about the fabrication issues. But I look
 14 forward to Wednesday and discussing it with
 15 the court.

16 The attorneys that Mr. Scarola
 17 identifies as designated for years, they
 18 were not. They were fact witnesses and only
 19 recently identified as expert witnesses, so
 20 appropriate discovery was propounded and
 21 their depositions were requested.

22 The new expert that Mr. Edwards has
 23 listed -- brand-new expert -- is being
 24 deposed this Friday, which incidentally is
 25 past the discovery cut-off date. I think he

1 always been very accommodating in that
 2 regard.

3 So it was not with the anticipation
 4 that we are going to open the floodgates for
 5 discovery to essentially recommence.

6 Again, it's a 2009 case. I know the
 7 counterclaim was filed a little bit later
 8 than that, but it is an old case -- has an
 9 appellate history -- that needs to get tried
 10 in March.

11 So what I am going to do is this.
 12 Because there are issues that need to be
 13 addressed -- and I'm hoping I will have
 14 orders out as soon as possible after those
 15 hearings are done -- is that I am going to
 16 require motions to be filed on a discovery
 17 issue-by-discovery issue, deposition by
 18 deposition, so as to find out several
 19 things. One, is the need to take that
 20 deposition and whether that need has been
 21 either clarified or required by virtue of a
 22 court order that will be entered
 23 subsequently to the commencement of
 24 Wednesday's hearings and thereafter on those
 25 days that I provided.

1 If it cannot be demonstrated to the
 2 Court that these witnesses need to be taken
 3 solely as a result the Court's ruling, then
 4 those requests will be denied, because,
 5 again, we were set to try the case next
 6 week.

7 And but for the legal issues that
 8 remained and the fact that the Court did not
 9 want to put anyone's back against the wall,
 10 including itself, in the short period of
 11 time that we had between trial and the
 12 hearings that had been set, and those were
 13 just for a one-day period and not enough
 14 time -- it was not contemplated that
 15 discovery was going to be open again, at
 16 least on the wholesale basis.

17 So to some odd deposition, unless they
 18 can be proven and shown to the Court as
 19 being required as a result of the rulings of
 20 the Court, will not be entertained. They
 21 should have been done before. And if not
 22 done before, I will need a reason for that
 23 as well.

24 MS. ROCKENBACH: Thank you, Your Honor.
 25 And so for clarification, that motion

1 stipulation. Those issues are going to be
 2 significantly impacted by the Court's legal
 3 rulings.

4 THE COURT: I'm sorry. I didn't follow
 5 that.

6 MS. ROCKENBACH: I'm sorry.

7 Joint pretrial stipulation is due --
 8 was due. In our response to Mr. Edwards'
 9 unilateral pretrial stipulation, we noted
 10 that based on the fact that Your Honor is
 11 going to be making significant legal rulings
 12 on November 29th, December 5th and
 13 December 7th, it was impossible for us to
 14 frame the issues to be tried in this case.
 15 There are pending legal motions that Your
 16 Honor is going to be ruling on probably on
 17 Wednesday. So my request is that we be
 18 allowed additional time following those
 19 hearings to reconvene and arrive at a joint
 20 pretrial stipulation.

21 THE COURT: All I can say is the
 22 elements of malicious prosecution are well
 23 set out in Florida law.

24 MS. ROCKENBACH: Agreed.

25 THE COURT: And so anticipating

1 that Your Honor is referencing would be
 2 filed after Your Honor's rulings on
 3 November 29th or December 5th or
 4 December 7th?

5 THE COURT: Meaning any motions that
 6 will be filed after the Court rulings
 7 relative to whether or not those deponents
 8 or the discovery was occasioned by the
 9 Court's ruling?

10 MS. ROCKENBACH: Correct.

11 THE COURT: Correct. We don't know
 12 what that is going to be as of yet.

13 MS. ROCKENBACH: Thank you.

14 And as far as the pretrial -- the joint
 15 pretrial stipulation, Your Honor, my point
 16 in that was not knowing how the Court will
 17 rule on critical issues requires -- it
 18 causes extreme uncertainty with regard to
 19 the issues to be tried.

20 Mr. Scarola -- Mr. Edwards filed a
 21 unilateral pretrial stipulation. I am going
 22 to ask the Court to allow us to reconvene
 23 following the hearings that are pending
 24 before and scheduled before Your Honor so
 25 that we can arrive at a joint pretrial

1 witnesses to testify as to those issues
 2 shouldn't be an extraordinary tasks at this
 3 point in time.

4 What I was going to say is I recognize
 5 that those lists might be tailored in
 6 accordance with the Court's rulings, but it
 7 shouldn't hold back -- just like pending
 8 motions in limine that are in every case,
 9 subsequent to -- either filed or filed
 10 before or after the pretrial is filed and
 11 heard. And it may reduce, increase or
 12 whatever the number of witnesses, but it
 13 wouldn't change the issues that have to be
 14 tried as it relates to a malicious
 15 prosecution action.

16 MS. ROCKENBACH: I would tend to agree
 17 with Your Honor. However, the recent
 18 filings by Mr. Edwards show that perhaps
 19 there are a mixing or misunderstanding of
 20 those legal elements as compared to a
 21 defamation case.

22 So I think this will be cleared up on
 23 Wednesday when Your Honor sees our motions,
 24 hears our arguments, and substantively rules
 25 on the pending real issues to be tried. And