

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

JEFFREY EPSTEIN

Complex Litigation, Fla. R. Civ. Pro.1201

Plaintiff,

Case No. 50 2009CA040800XXXXMB AG

v.

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

Defendants.

**PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS FROM  
BANKRUPTCY TRUSTEE, HERBERT STETTIN**

1. On or about April 17, 2010, counsel for Mr. Epstein served a Subpoena Duces Tecum for Deposition - Documents Only on Herbert Stettin, Trustee in Bankruptcy for Rothstein Rosenfeldt Adler, P.A. in an attempt to obtain documents relevant to issues in the above styled matter. See Exhibit "A", subpoena duces tecum April 16, 2010.

2. Following service of the subpoena on Herbert Stettin, Attorney Critton at Burman, Critton, Luttier & Coleman and his associates had several different communications with Luis Torres at the law firm of Berger Singerman, attorneys for the Bankruptcy Trustee. Luis Torres, a paralegal with Berger Singerman, sent a letter to Mr. Critton on May 21, 2010 indicating that the Bankruptcy Trustee had retrieved approximately six thousand emails that might be responsive to the subpoena more fully described above. In that same letter, Mr. Torres indicated that he anticipated finalizing the review of the emails above for attorney/client privilege information by May 28, 2010 and intended to produce the responsive documents, along with a privilege log, by Monday, May 31,

FILED

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SHARON R. BOCK, CLERK  
PALM BEACH COUNTY,  
FLORIDA  
CIRCUIT COURT

2010. See Exhibit "B", letter from Luis Torres to Atty. Critton, May 21, 2010.

3. Since the time the above letter from Mr. Torres was sent, the May 31, 2010 date for compliance with the above referenced subpoena has come and gone and multiple attempts have been made to address this noncompliance with Luis Torres and the lawyers at Berger Singerman on behalf of the Bankruptcy Trustee, Herbert Stettin. Most recently, the attorneys for the Bankruptcy Trustee have required both a Joint Motion for Entry of Stipulated Protective Order and the Protective Order By and Between Trustee and Creditors. See Exhibits "C" & "D" attached hereto, respectively.

4. Upon request of the bankruptcy trustee the undersigned forwarded to Mr. Torres and Mr. Lichtman at Berger Singerman the Joint Ex parte Motion and the Stipulated Protective Order which are attached to this Motion. The Joint Motion and Stipulated Protective Order arise from a May 18, 2010 Order from the U.S. Bankruptcy Court Southern District of Florida, Ft. Lauderdale Division, Judge Raymond B. Ray, who approved a proposed document production protocol pursuant to an Order on this same date. See Exhibit "E" attached hereto, Order by Judge Ray, May 18, 2010.

5. As this Honorable Court can see, Judge Ray approved a document production protocol which required a protective order be entered between the Trustee and the requesting party, as well as protocol for search criteria, confidentiality, nondisclosure and nonwaiver of any attorney/client privileges. Mr. Epstein has fully complied with the Bankruptcy Court's protocols and the request by the Bankruptcy Trustee's attorneys as it relates to the production of the six thousand plus emails related to the former Rothstein Rosenfeldt and Adler P.A. law firm.

6. To date, the Bankruptcy Trustee and the attorneys at Berger Singerman for the Bankruptcy Trustee still refuse to produce any of the emails, which is contrary to their previous correspondence on May 21, 2010 ( attached hereto) wherein they indicated they would produce such

emails. Most recently, on June 16, 2010 in an email to Atty. Sanchez at Fowler White Burnett, P.A., Mr. Charles Lichtman, attorney at Berger Singerman for the Bankruptcy Trustee, now indicates that he will not be providing any documentation responsive to our subpoena and will be filing a Motion for Protective Order on this issue contrary to the letter previously sent out by their firm. The refusal to produce the documents is in direct contradiction not only to Berger Singerman's previous agreement to produce the emails, but also to the Order issued from the Bankruptcy Court, Judge Ray, indicating that such document production is permissible with specific safeguards being put in place, all of which Mr. Epstein and his counsel have complied with in order to satisfy the requirements of the Bankruptcy Court.

7. Production of these documents from the Trustee are critical to issues in the above styled case. Without access to these emails, Mr. Epstein will suffer unfair prejudice and will be unable to obtain the information critical to his lawsuit. The Bankruptcy Trustee improperly claims privilege over these documents and no privilege log has ever been provided. Additionally, there is the potential that the crime fraud exception to the attorney/client privilege would ultimately apply rendering any claimed privilege, even an improperly claimed privilege, a moot point.

WHEREFORE, Defendant, Jeffrey Epstein, hereby respectfully request this Court to Grant his Motion to Compel and allow the Defendant and his counsel access, per the Bankruptcy Court's Guidelines, to the six thousand plus emails referenced by the Bankruptcy Trustee as more fully described above, together with all attorneys fees and costs necessary in bringing this Motion in order to compel compliance with the Defendant's properly served subpoena and for any and all other relief this Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 18 day  
of June, 2010 to

Gary M. Farmer, Jr., Esq.  
Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, PL  
425 N. Andrews Avenue, Suite 2  
Fort Lauderdale, FL 33301

Jack Scarola, Esq.  
Searcy Denney Scarola Barnhart & Shipley, P.A.  
2139 Palm Beach Lakes Blvd.  
West Palm Beach, FL 33409

Jack Alan Goldberger, Esq.  
Atterbury Goldberger & Weiss, P.A.  
250 Australian Avenue South  
Suite 1400  
West Palm Beach, FL 33401-5012

Marc S. Nurik, Esq.  
Law Offices of Marc s. Nurik  
One E. Broward Blvd., Suite 700  
Ft. Lauderdale, FL 33301

By: \_\_\_\_\_

  
Rodney J. Janis  
Fla. Bar No. 647896  
FOWLER WHITE BURNETT P.A.  
901 Phillips Point West  
777 South Flagler Drive  
West Palm Beach, Florida 33401  
Telephone: (561) 802-9044  
Facsimile: (561) 802-9976  
Attorneys for Jeffrey Epstein, Plaintiff

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

JEFFREY EPSTEIN

Complex Litigation, Fla. R. Civ. Pro.1201

Plaintiff,

Case No. 50 2009CA040800XXXXMB AG

v.

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

Defendants.

**SUBPOENA DUCES TECUM FOR DEPOSITION – DOCUMENTS ONLY**

THE STATE OF FLORIDA

TO: **Herbert Stettin, Trustee In Bankruptcy for Rothstein Rosenfeldt Adler, PA  
C/O James C. Cunningham, Jr., Esq.  
Berger Singerman, P.A.  
200 South Biscayne Blvd., Suite 1000  
Miami, FL 33131**

**YOU ARE COMMANDED to appear at Prose Court Reporting, 101 NE 3<sup>rd</sup> Avenue,  
Suite #1500, Ft. Lauderdale, FL 33301, on May 19, 2010, 4:00 p.m., bring with you the  
following:**

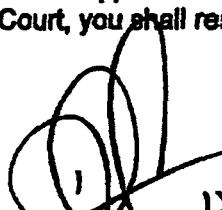
**See attached Exhibit A**

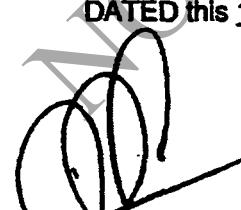
**If you fail to appear, you may be in contempt of court.**

**You are subpoenaed by the attorney whose name appears on this subpoena and unless  
excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as  
directed.**

**DATED this 16<sup>th</sup> day of April, 2010.**

BY:

  
**ROBERT D. CRITTON, JR., ESQ.**  
For the Court

  
**ROBERT D. CRITTON, JR.**  
(Attorneys for Defendant Jeffrey Epstein)  
Burman, Critton, Luttier & Coleman  
303 Banyan Blvd., Suite 400  
West Palm Beach, FL 33401  
561-842-2820



## EXHIBIT A

### DEFINITIONS AND INSTRUCTIONS

A. "Document" means any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to, correspondence, memoranda, notes, messages, letters, purchase orders, telegrams, teletype, telefax bulletins, e-mails, electronic data, meetings, reports, or other communications, interoffice and intra-office telephone calls, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, receipts, returns, trade information regarding fabric, carpets, samples etc..., computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphs or aural records or representations of any kind, including, without limitation, photographs, charts, graphs, microfiche, microfilm, video tape, recordings, motion pictures and electronic, mechanical or electric recordings or representations of any kind (including, without limitation, tapes, cassettes, discs and recordings), and including the file and file cover.

The term "Document" also means any and all computer records, data, files, directories, electronic mail, and information of whatever kind whether printed out or stored on or retrievable from floppy diskette, compact diskette, magnetic tape, optical or magnetic-optical disk, computer memory, hard drive, zip drive, jaz drive, orb drive,

microdisk, external memory stick, software, or any other fixed or removable storage media, including without limitation, all back-up copies, dormant or remnant files, and any and all miscellaneous files and/or file fragments, regardless of the media on which they reside and regardless of whether the data consists in an active file, deleted file, or file fragment.

B. "Communications" means any oral or written statement, dialogue, colloquialism, discussion, conversation or agreement.

C. "Plaintiff" means L.M. (*L.M. v. Jeffrey Epstein, Palm Beach County Case #502008CA028051XXXXMB*), E.W. (*E.W. v. Jeffrey Epstein, Palm Beach County Case #502008CA028058XXXXMB*), Jane Doe<sup>1</sup> (*Jane Doe v. Jeffrey Epstein, United States District Court Case #08-civ-80893-Marra/Johnson*), and any other person who is or was represented by Rothstein Rosenfeldt & Adler that has not yet filed an action against Jeffrey Epstein, and any employee, agent or attorney for any plaintiff and/or any other person acting for or on behalf of any plaintiff, or under her authority and control.

D. "RRA" means Rothstein Rosenfeldt & Adler, P.A.

E. "Money" means any tangible thing of value.

F. "Costs" include, but are not limited to, court costs, filing fees, Sheriff's service and any other necessary service of legal papers or notices or subpoenas, court reporters' charges, long distance telephone charges, postage, courier services or Federal Express or UPS, investigative costs, photocopies, faxes, Westlaw computerized research, travel expenses, and witness fees and expert witness fees and costs.

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<sup>1</sup> If you are unable to identify each Plaintiff, please contact Robert D. Critton, Jr. at their names will be provided pursuant to a confidentiality agreement.

G. "Trustee" means Herbert Stettin as bankruptcy trustee for RRA.

**DUCES TECUM**<sup>2</sup>

1. For the time period from March 1, 2009 to present, any and all documents between, or on behalf of RRA, its employees or agents or clients, and any third party regarding a purported settlement of any litigation between Jeffrey Epstein and a RRA client or Plaintiff, or the financing of any litigation between Jeffrey Epstein and a RRA client or Plaintiff, (whether existing clients or fabricated clients), including but not limited to:

- a. Documents indicating that litigation with Jeffrey Epstein has been settled;
- b. Soliciting or receiving money in return for settlement funds allegedly paid or to be paid by Jeffrey Epstein;
- c. Soliciting money to help finance ongoing litigation against Jeffrey Epstein;
- d. Soliciting money to be given to, or used on behalf of, the Plaintiffs in litigation against Jeffrey Epstein;
- e. Communication between third party investors or potential investors and the Plaintiffs or their attorneys involved in litigation against Jeffrey Epstein;
- f. Payments made by RRA to or on behalf of any Plaintiff.

2. Any and all fee agreements that exist or have existed between the following:

- a. Any Plaintiff and Bradley J. Edwards or any entity with which he has been associated;
- b. Any Plaintiff and the law firm RRA.

3. All emails, data, correspondence, memos, or similar documents between Bradley J. Edwards, Scott W. Rothstein, William Berger and Russell Adler and/or any attorney or representative of RRA and any investor or third party (person or entity) regarding Jeffrey Epstein or which mentions Jeffrey Epstein (including Mike Fisten, Kenneth Jenne, Patrick Roberts or Rick (Rich) Fandrey).

4. All emails, data, correspondence, memos, or similar documents between Bradley J. Edwards, Scott W. Rothstein, and/or any attorney or representative of RRA regarding Jeffrey Epstein or which mentions Jeffrey Epstein (including Mike Fisten, Kenneth Jenne, Patrick Roberts or Rick (Rich) Fandrey).

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<sup>2</sup> Due to the potential volume of documents involved, the parties and the Court should consider appointment of a special master and/or an in camera inspection to address any objections, claims of privilege and generally manage the production of documents.

5. All agreements or documents of any nature which were provided to or received from an investor or potential investor relating to any case (real or fabricated) involving Jeffrey Epstein and any of the following:

- a. Scott W. Rothstein;
- b. Bradley J. Edwards;
- c. RRA;
- e. any entity formed by RRA or Bradley J. Edwards or Scott W. Rothstein to create investment opportunities for third party investors to invest in any plaintiff's case against Jeffrey Epstein.

6. All fee sharing agreements between Bradley J. Edwards, RRA, or Scott W. Rothstein and/or any other attorney or investor relating to any aspect of any Plaintiff's case.

7. All documents made available to any investor or potential investor by Bradley J. Edwards, RRA, Scott W. Rothstein or any of Scott W. Rothstein's entities to solicit "investors" for any case involving Jeffrey Epstein.

8. All documents reflecting the names and addresses of all individuals or entities who invested or purported to invest in any aspect of any case against Jeffrey Epstein.

9. All documents evidencing payment of any bill or cost in each Plaintiff's case against Jeffrey Epstein, and the source(s) for said payments of any Costs.

10. All documents wherein the Trustee of RRA has asserted a lien for attorney's fees or Costs arising out of work done and Costs incurred related to the Plaintiffs' cases during the time Plaintiffs' cases were represented by RRA.

11. All documents and tangible things retrieved from the trash at 358 El Brillo Way, Palm Beach, Florida which is alleged to be the home of Jeffrey Epstein.

12. All conversations recorded from any telephones which purported to be that of Jeffrey Epstein that are contained in any media (audio tapes, CDs, DVDs, zip drives, hard drives or any other electronic format and any written transcriptions)

13. All conversations recorded from any telephones which purported to be from Jeffrey Epstein's attorneys including Roy Black, Alan Dershowitz or Jack Goldberger, that are contained in any media (audio tapes, CDs, DVDs, zip drives, hard drives or any other electronic format and any written transcriptions)

14. All intercepted phone conversations authorized by RRA including but not limited to any one of its attorneys or investigators or anyone retained by or working for RRA related to Jeffrey Epstein that are contained in any media (audio tapes, CDs,

DVDs, zip drives, hard drives or any other electronic format and any written transcriptions).

15. All intercepted or acquired electronic mail (e-mails) to and from Jeffrey Epstein authorized by RRA including but not limited to any one of its attorneys or investigators or anyone retained by or working for RRA.

16. All intercepted or acquired electronic mail (e-mails) to and from the attorneys for Jeffrey Epstein including but not limited to: Roy Black, Alan Dershowitz or Jack Goldberger, authorized by RRA including but not limited to any one of its attorneys or investigators or anyone retained by or working for RRA.

17. All documents related to the amount of Costs that were incurred by RRA in its representation of Jane Doe, L.M. and E.W. and is claiming or has claimed

18. All documents which purport to evidence any transfer of funds or property from Jeffrey Epstein to RRA, Rothstein or any Rothstein-related entity for the settlement of any case (real or fabricated) against Jeffrey Epstein.

19. All documents which purport to mention any transfer of funders or property from Jeffrey Epstein to RRA, Rothstein or any Rothstein-related entity for the settlement of any case (real or fabricated) against Jeffrey Epstein.

20. All documents relating to any investment, joint-venture or business enterprise involving RRA, Rothstein or a Rothstein-related entity that reference any claim (real or fabricated) against Epstein.

21. All emails exchanged between any of the following individuals wherein Epstein, a Palm Beach billionaire or similar reference was mentioned:

- a. Scott Rothstein
- b. Russell Adler
- c. William Berger
- d. Michael Fisten
- e. Kenneth Jenne
- f. David Boden
- g. Deborah Villegas
- h. Andrew Barnett
- i. Patrick Roberts
- j. Richard (Rick) Fandry
- k. Christina Kitterman
- l. Brad Edwards

22. All documents related to or referencing potential deponents in the Jane Doe, L.M. or E.W. cases.

23. All Q-Task "Projects" that refer to Jeffrey Epstein.

24. All Q-Task Projects that refer to L.M., E.W., or Jane Doe.

25. All documents that identify all individuals who were granted access (invited guests) or who had access to the Q-Task Projects referred to in request nos. 23 and 24.

26. All documents, communications and letters sent by you assessing liens against the recoveries in:

- a. L.M. v. Epstein, Case No. 502008CA028051XXXXMB
- b. E.W. v. Epstein, Case No. 502008CA028058XXXXMB
- c. Jane Doe v. Epstein, Case No. 08-CV-80119-MARRA/JOHNSON

27. All documents related to the Costs that you, as bankruptcy Trustee, are claiming related to L.M., E.W. and Jane Doe's cases against Epstein. This includes any data or electronic printout of Costs which the Trustee of RRA is claiming.

28. Any employment agreements or letters describing compensation and benefits for Bradley Edwards during his employment with RRA.

29. All documents from the "Fortress" software program that refer or relate to Jeffrey Epstein.

30. All documents from the "Fortress" software program that refer or relate to L.M., E.W., or Jane Doe.

31. For the time period April 1, 2009 through November 5, 2009, all emails to and from any employee, partner, shareholder, attorney, agent or client of RRA that reference any of the following:

- a. A.J. DiScala;
- b. D3 Capital Club, LLC
- c. Bill Clinton;
- d. Alan Dershowitz;
- e. David Copperfield;
- f. Kevin Spacey;
- g. Chris Tucker;
- h. Prince Andrew
- i. Jean-Luc Brunel;
- j. Tommy Motolla;
- k. Bill Richardson;
- l. Donald Trump.



**BERGER SINGERMAN**  
attorneys at law

GIVING BACK. MOVING FORWARD

Boca Raton Fort Lauderdale Miami Tallahassee

Luis Torres  
(954) 712-5127  
Ltorres@bergersingerman.com

May 21, 2010

**VIA FACSIMILE AND E-MAIL**

Robert D. Critton, Jr., Esq.  
David A. Yarema, Esq.  
BURMAN, CRITTON, LUTTIER & COLEMAN  
515 N. Flagler Drive, Suite 400  
West Palm Beach, FL 33401

Re: Subpoena Directed to Herbert Stettin in the case styled L.M. v. Jeffrey Epstein,  
Case No. 502008CA028051XXXXMB AD

Dear Mr. Critton and Mr. Yarema:

Pursuant to the subpoena directed to Herbert Stettin ("Trustee") dated April 16, 2010 ("Subpoena") and the various communications we have had regarding the search parameters to be utilized in order to comply with the Subpoena, please be advised that the Trustee has retrieved approximately 6000 e-mails that might be responsive to the Subpoena. We want to make clear that the Trustee does not have the capability to run electronic searches over all of RRA's documents. Therefore, the 6000 e-mails which have been identified are from Scott Rothstein's and Bradley Edward's e-mail accounts. We anticipate finalizing the review of e-mails for attorney-client privilege information by Friday, May 28, 2010, and we intend to produce responsive documents, along with a privilege log, by Monday, May 31, 2010.

Should you have any questions or concerns, please feel free to contact me at 954.712.5127.

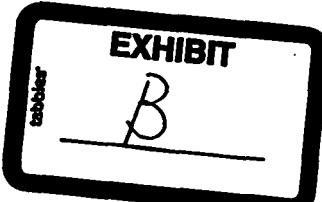
Sincerely,

BERGER SINGERMAN

Luis Torres  
Litigation Paralegal

cc: James C. Cunningham, Jr., Esq.

ANDREW HINKUS



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION  
www.flsb.uscourts.gov

CASE NO.: 09-34791-RBR  
Chapter 11

IN RE:

ROTHSTEIN ROSENFELDT ADLER, P.A.,

Debtor.

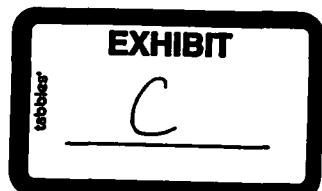
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**JOINT EX PARTE MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER**  
**(Expedited Relief Requested)**

Herbert Stettin, the Chapter 11 Trustee ("Trustee") of the Debtor, Rothstein RosenfeldtAdler, P.A. ("RRA"), and Jeffrey Epstein, by and through this undersigned counsel, Fowler White Burnett, move for the entry of Stipulated Protective Order ("Stipulated Protective Order") by and between the Trustee and Mr. Epstein's counsel, attached hereto as Exhibit "A", and in support thereof state:

1. Pursuant to this Court's Order Granting Trustee's Motion Seeking a Protective Order and Approving Proposed Document Production Protocol "(Order") [D.E. #672], the Trustee and Mr. Epstein, through counsel, jointly move for the entry of the Stipulated Protective Order.
2. The Trustee and Mr. Epstein, through counsel, request that the Stipulated Protective Order be entered without a hearing as the relief requested herein is in compliance with the Court's Order.
3. The Trustee and Mr. Epstein, through counsel, are requesting expedited relief so that Creditors can quickly begin the process of reviewing and analyzing voluminous information.

WHEREFORE, the Trustee and Mr. Epstein, through counsel, jointly move for the entry of



the Stipulated Protective Order by and between Trustee and Mr. Epstein, through counsel, attached hereto as Exhibit "A", and for any and all other relief this Court deems just and equitable.

Dated: \_\_\_\_\_ day of June, 2010

Respectfully Submitted,

By: \_\_\_\_\_

Lilly Ann Sanchez, FBN 195677  
Christopher E. Knight, FBN 607363  
Joseph L. Ackerman, Jr., FBN 235954  
Rodney J. Janis, FBN 647896  
FOWLER WHITE BURNETT P.A.  
901 Phillips Point West  
777 South Flagler Drive  
West Palm Beach, Florida 33401  
Telephone: (561) 802-9044  
Facsimile: (561) 802-9976

By: \_\_\_\_\_

Charles H. Lichtman FBN 501050  
BERGER SINGERMAN  
Counsel for the Chapter 11 Trustee  
350 East Las Olas Blvd., 10<sup>th</sup> Floor  
Ft. Lauderdale, Florida 33301  
Telephone: (954) 525-9900  
Fax: (954) 523-2872

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished via the Court's CM/ECF electronic noticing system all electronic filing participants with respect to this proceeding, this \_\_\_\_\_ day of June, 2010. I also certify that the foregoing document is being served this \_\_\_\_\_ day of June, 2010 by U.S. Mail to all parties listed on the service list below, and who are not registered to receive Notice of Electronic Filing in this case.

\_\_\_\_\_  
Charles H. Lichtman, Esquire

ORDERED in the Southern District of Florida on \_\_\_\_\_

Raymond B. Ray, Judge  
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

CASE NO.: 09-34791-RBR  
Chapter 11

IN RE:

**ROTHSTEIN ROSENFELDT ADLER, P.A.,**

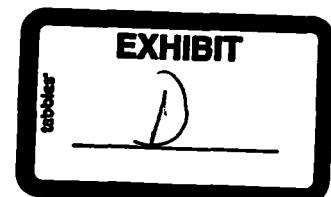
Debtor.

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**STIPULATED PROTECTIVE ORDER BY AND BETWEEN  
TRUSTEE AND CREDITORS**

Herbert Stettin, the Chapter 11 Trustee ("Trustee") of the Debtor, Rothstein RosehfeldtAdler, P.A. ("RRA"), and Jeffrey Epstein, by and through this undersigned counsel, Fowler White Burnett, P.A., pursuant to this Court's May 18, 2010 oral ruling granting Trustee's Motion for Expedited Relief Seeking a Protective Order and Approving Proposed Document Production Protocol ( D.E. #617), hereby agree to and request Court approval of the following stipulation:

It is expected that, to facilitate the sharing of RRA's information, including electronically stored information ("ESI"), Mr. Epstein's counsel has submitted search criteria, including names of targeted custodians, search terms, date ranges, to/from, subject line contents, or other criteria to the Trustee to be applied against ESI in the possession of the Trustee. It is further anticipated that the Trustee's counsel and Mr. Epstein's counsel have agreed upon certain search criteria prior to the resulting data being produced to MR. Epstein's counsel. Finally, both parties seek the protection of



the Court to ensure that they may share RRA information, including ESI, while preserving the privileges owed by RRA to its former clients. It is therefore ORDERED AND ADJUDGED:

1. All resulting data from the search terms provided to the Trustee by Mr. Epstein's counsel shall be made available to Mr. Epstein and his counsel after the entry of this Stipulated Protective Order. Counsel for MR. Epstein shall immediately return any documents, ESI or other RRA information produced by the Trustee that is, or appears that it may be protected by attorney/client privilege relating to RRA's representation of any former client. Should any such disclosure of attorney/client privileged or work-product doctrine protected documents occur, upon the Parties' compliance with the terms of this Stipulated Protective Order, that disclosure shall be deemed waived by that disclosure in his or any other action in any other Federal or State proceeding, pursuant of Federal Rule of Evidence 502(d)(e) and Federal Rule of Civil Procedure 26(b)(5)(B), regardless of state decisional law.
2. Neither Mr. Epstein nor its counsel shall publish, disseminate, or make public any documents or ESI, or the contents thereof, provided by the Trustee without first submitting the documents or ESI to be used to the Trustee or his counsel for authorization, unless MR. Epstein or his counsel obtained the identical information from another non-privileged source. The Trustee shall examine any documents or ESI to be used by Mr. Epstein's counsel for privilege or protection before authorizing its use by said counsel. Mr. Epstein's counsel must receive written authorization from the Trustee prior to any publication, dissemination, or use of any documents or ESI received from the Trustee which would make those documents or ESI public.
3. Neither the Trustee nor his counsel shall publish, disseminate, or make public the list of search criteria submitted by Mr. Epstein's counsel nor a list of the documents that ESI supplied to Mr. Epstein or his counsel unless so compelled by Court Order.

4. If any party identifies that privileged and/or protected documents of ESI have been produced to Mr. Epstein's counsel and said counsel fails to promptly return that protected information, and if any unauthorized publication of information provided by the Trustee to Mr. Epstein's counsel occurs in violation of this Stipulated Protective Order, the Trustee may move for injunctive relief on an emergency and/or expedited basis, including the application for an *ex parte* order enjoining possession, publication or other use of any RRA information, including documents or ESI.

5. This protective order is not intended to nor does it apply to any person or party not explicitly named herein.

Submitted by:

Lilly Ann Sanchez, FBN 195677  
Christopher E. Knight, FBN 607363  
Joseph L. Ackerman, Jr., FBN 235954  
Rodney J. Janis, FBN 647896  
FOWLER WHITE BURNETT P.A.  
901 Phillips Point West  
777 South Flagler Drive  
West Palm Beach, Florida 33401  
Telephone: (561) 802-9044  
Facsimile: (561) 802-9976

Copies to:

Attorney Lilly Ann Sanchez shall serve this Order on all interested parties and file a certificate of service within 3 days of this Order.

**SERVED VIA ECF NOTICE**

- Grisel Alonso grisel.alonso@usdoj.gov, daleana.roque@usdoj.gov
- Brett M Amron bamron@bastamron.com, jrivera@bastamron.com, jeder@bastamron.com
- Jeffrey Bast jbast@bastamron.com, kjay@bastamron.com; jdepina@bastamron.com; kmiller@bastamron.com; dquick@bastamron.com
- Jeffrey M Berman jberman@klugerkaplan.com
- John G. Bianco III jgb@trippscott.com, bankruptcynoticecenter@trippscott.com
- Mark D Bloom bloomm@gtlaw.com, phillipsj@gtlaw.com; MialitDock@gtlaw.com; miaecfbky@gtlaw.com
- Francis L. Carter flc@katzbarron.com, lcf@katzbarron.com
- David C. Cimo dcimo@gjb-law.com, gjbecf@gjb-law.com
- Robert C Furr bnasralla@furrcohen.com
- John H Genovese jgenovese@gjb-law.com, cgreco@gjb-law.com; dsanchez@gjb-law.com; gjbecf@gjb-law.com
- Michael I Goldberg michael.goldberg@akerman.com, charlene.cerda@akerman.com
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ORDERED in the Southern District of Florida on 05/18/10



Raymond B. Ray  
Raymond B. Ray, Judge  
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

In re:

CASE NO.: 09-34791-BKC-RBR

ROTHSTEIN ROSENFELDT ADLER, P.A., CHAPTER 11

Debtor.

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**ORDER GRANTING TRUSTEE'S MOTION SEEKING A PROTECTIVE ORDER AND APPROVING PROPOSED DOCUMENT PRODUCTION PROTOCOL [D.E. #617]**

THIS MATTER came before the Court on May 18, 2010 at 9:30 a.m on the Motion by Trustee Stettin For Expedited Relief Seeking A Protective Order And Approving Proposed Document Production Protocol (the "Motion for Protective Order") [D.E. #617]. The Court has reviewed the Motion for Protective Order, and the Response to Trustee's Motion for Expedited Relief Seeking Protective Order and Approving Proposed Document Production Protocol ("Response") [D.E. #667] filed by Certain Creditors of RRA as detailed therein, and having heard the argument of counsel and otherwise being fully advised,

**DOES HEREBY ORDER:**

EXHIBIT

E

1. **The Trustee's Motion for Protective Order is Granted.**
2. **To protect against the incidental disclosure of documents or Electronically Stored Information ("ESI") (hereinafter collectively "RRA Information") protected by any RRA attorney-client privilege or the work product doctrine, in accordance with Federal Rule of Civil Procedure 26(b)(5)(B) and Federal Rule of Evidence 502, the Court approves the following protocol to govern any demand, subpoena or request for production of RRA's electronically stored information:**
  - A. Requesting Parties shall provide all search criteria, including names of targeted custodians, search terms, date ranges, to/from, subject line contents, or other criteria ("Search") to be applied against the RRA information, to the Trustee.
  - B. The Trustee will conduct the requested Search of RRA information after the mutual execution and filing with the Court of a Stipulated Protective Order. The Stipulated Protective Order shall include a clawback provision in accordance with Federal Rule of Evidence 502 and Federal Rule of Civil Procedure 26(b)(5)(B), which shall require the Requesting Party to destroy or return all copies of any documents, ESI or other RRA information that is made available to the Requesting Party as a result of the Search that is privileged data related to RRA's former representation of any former client. The Stipulated Protective Order shall allow the Trustee to move for immediate emergency injunctive relief to protect RRA's Client's privilege if necessary.
  - C. Before the Requesting Party publishes, files or distributes to any other party any information obtained from the document repository ("Resulting Data"), that Resulting Data intended to be used by the Requesting Party, unless otherwise available from other sources besides the Trustee, shall be disclosed to the Trustee who shall conduct a review for RRA's client's privilege before any RRA information may be published or otherwise used or distributed by the Receiving Party.
  - D. The terms of any filed Stipulated Protective Order shall apply to any subsequent requests to the Trustee for Search of RRA information by that Requesting Party.
3. **The Trustee agrees to keep any keywords or search criteria provided to the Trustee by any Requesting Party confidential, only to be disclosed when required by Court Order.**

4. By sharing any RRA Information with a third party document management system vendor, the Trustee does not waive any privilege or confidentiality over any documents otherwise protected by the work product doctrine or attorney-client privilege.

5. All Requesting Parties seeking production of responsive documents or ESI shall file with the Court their Stipulated Protective Orders before any access to any documents or ESI is provided by the Trustee to that Requesting Party.

6. Assuming compliance with this Order, any inadvertent disclosure of privileged material by the Trustee to any Requesting Party shall not be construed as a waiver of any privilege pursuant to Federal Rules of Evidence 502(d) and (e).

7. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

# # #

Submitted by:

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Copy furnished to:

Charles H. Lichtman, Esq.  
(*Attorney Lichtman is directed to serve this Order to all parties of interest and to file a Certificate of Service.*)