

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

JUDGE: DAVID CROW

vs.

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

Defendants/Counter-Plaintiff,

**MOTION IN LIMINE TO PRECLUDE AT TRIAL THE USE OF THE
FOLLOWING ITEMS LISTED ON EDWARDS'S REVISED EXHIBIT LIST**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel moves for an Order in Limine precluding Defendant/Counter-Plaintiff Bradley Edwards ("Edwards") and his Counsel from making any mention of the below-listed matters. In support thereof, Epstein states:

INTRODUCTION

This motion in limine seeks to prohibit any reference to evidence at trial by first having its inadmissibility determined outside the presence of the jury. *Rosa v. Fla. Power & Light Co.*, 636 So. 2d 60, 61 (Fla. 2d DCA 1994). The purpose of this motion in limine is to prevent Edwards from offering improper evidence at trial, the mere mention of which would be prejudicial. *Buy-Low Save Ctrs., Inc. v. Glinert*, 547 So. 2d 1283, 1284 (Fla. 4th DCA 1999); *Dailey v. Multicon Dev., Inc.*, 417 So. 2d 1106, 1107 (Fla. 4th

DCA 1982). Accordingly, a motion in limine is proper to exclude any irrelevant and immaterial evidence when its probative value is outweighed by prejudice. *Devoe v. Western Auto Supply Co.*, 537 So. 2d 188, 189 (Fla. 2d DCA 1989). A motion in limine is especially appropriate to preclude inadmissible evidence that will be highly prejudicial to the moving party and, if referenced in a question or by counsel, would unlikely be disregarded by the jury despite an instruction by the court to do so. *Fischman v. Suen*, 672 So. 2d 644, 645 (Fla. 4th DCA 1996). In the case at hand, Epstein requests that this Court enter an Order precluding any reference to the below-listed matters/items.

A. **All of the Exhibits listed below**

The items listed below appear on Edwards's Amended Trial Exhibit List. However, despite Epstein's request for same back in April, they were never turned over to Epstein. As such, Edwards should be precluded from utilizing or referencing them at trial. Given the sheer volume of the list (91 exhibits) of items that have not been turned over, it would be impossible for Epstein to review and evaluate same prior to trial; causing unfair prejudice. *Escutia v. Greenleaf Products, Inc.*, 886 So. 2d 1059, 1062 (Fla. 1st DCA 2004); *Agrofollajes, S.A. v. E.I. Du Pont De Nemours & Co., Inc.*, Nos. 3D07-2322, 3D07-2318, 3D07-1036, 2009 WL 4828975, at *16 (Fla. 3d DCA Dec. 16, 2009) (stating "Florida courts have explained that the rules of discovery are intended to avoid surprise and trial by ambush"). Sanction for failure to make discovery may be striking of pleadings, prohibition of introduction of evidence at trial, or refusal to permit presentation of claim or defense. *Mitchem v. Grubbs*, 485 So. 2d 891 (Fla. 1st DCA 1986).

Furthermore, these items are irrelevant to the case at hand pursuant to § 90.401 of

the *Florida Statutes*, and to the extent that Edwards could argue that any are relevant, any alleged “probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.” § 90.403 FLA. STAT. (2013); *Dailey v. Multicon Development, Inc.*, 417 So.2d 1106, 1107 (Fla. 4th DCA 1982). “‘Unfair prejudice’ has been described as ‘an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.’ This rule of exclusion ‘is directed at evidence which inflames the jury or appeals improperly to the jury’s emotions.’” *Wright v. State*, 19 So. 3d 277 (Fla. 2009). Here, the below-listed items undeniably have no bearing on Edwards’s abuse of process or malicious prosecution claims. In fact, the repeated references to “victim” prove that. While it is clear from Edwards’s Exhibit List that Edwards would like to re-litigate his previous cases against Epstein, these items undeniably are irrelevant and intended to do little more than unfairly inflame and prejudice the jury with irrelevant information from Epstein’s criminal case and prior civil cases; not one of which is an abuse of process or malicious prosecution case.

4. Video of Jeffrey Epstein’s home and route from victim to Epstein’s home
9. Documents related to Jeffrey Epstein produced by Alfredo Rodriguez
11. Jeffrey Epstein phone records
12. Sarah Kellen’s phone records
15. All probable cause affidavits related to criminal investigation of Jeffrey Epstein
16. All evidence, information and documents taken or possessed by FBI related to criminal investigation of Jeffrey Epstein
17. Victims’ statements to the FBI related to criminal investigation of Jeffrey Epstein

18. Video of Search Warrant of Jeffrey Epstein's home being executed
19. Application for Search Warrant of Jeffrey Epstein's home
27. Yearbooks of Jane Doe
28. 2002 Royal Palm Beach High School Year Book
29. 2001 Royal Palm Beach High School Year Book
30. 2003 Palm Beach Gardens High School Year Book
31. Affidavit and Application for Search Warrant on Jeffrey Epstein's home
32. Tape recording or transcript of recording of conversation between Jeffrey Epstein and George Rush
33. Notepads found in Jeffrey Epstein's home and/or during trash pulls outside of his home during criminal investigation
39. All statements made by Jeffrey Epstein
40. List of properties and vehicles in Larry Visoski's name
50. Video footage (DVD) of walk through site inspection of Jeffrey Epstein's home.
51. Photos of all of Jeffrey Epstein's properties, cars, boats and planes
52. Probable Cause Affidavits prepared against Jeffrey Epstein and Sarah Kellen
53. Audio tape of Haley Robson
54. Photographs, videos and books taken in the search warrant of Jeffrey Epstein's home
55. Documents related to or evidencing Jeffrey Epstein's donations to law enforcement
56. Victim Notification Letter from US Attorney's Office to Victim
57. Expert Dr. L. Dennison Reed's Report of Victim
59. All reports and documentation generated by Palm Beach Police Department related to Jeffrey Epstein

60. All Witness Statements generated by Palm Beach Police Department relating to Jeffrey Epstein
61. Passenger Manifests of Jeffrey Epstein's aircraft and private plane flight logs
62. Passenger lists for flights taken by Jeffrey Epstein
63. Letter from Jeffrey Epstein to Alberto Pinto regarding house island project
65. MC2 emails involving communications of Jeffrey Epstein, Jeff Puller, Maritza Vasquez, Pappas Suat, Jean Luc Brunel and Amanda Grant
68. Massage Table
69. Lotions taken from Jeffrey Epstein's home during search warrant
70. Computers taken from Jeffrey Epstein's home during search warrant
71. Vibrators, dildos and other sex toys taken from Jeffrey Epstein's home during search warrant
77. CAD calls to 358 El Brillo Way, Palm Beach FL 33480
80. Letter from Chief Michael Reiter to Barry Krischler
82. Letter from Guy Fronstin to Assistant State Attorney dated 1-11-06
83. Letter from Guy Fronstin to Assistant State Attorney dated 1-13-06
84. Letter from Guy Fronstin to Assistant State Attorney dated 2-17-06
85. Letter from Guy Fronstin to Assistant State Attorney dated 4-6-06
86. Letter from Guy Fronstin to Assistant State Attorney dated 4-10-06
87. Letter from Goldberger dated 6-22-06
88. All subpoenas issued to State Grand Jury
89. Documents related to the rental of a vehicle for Vanessa Zalis
90. Ted's Sheds Documents
91. Documents related to property searches of Jeffrey Epstein's properties

92. Arrest Warrant of Sarah Kellen
93. Police report regarding Alexandra Hall picking up money dated 11-28-04
94. List of Trilateral Commission Members of 2003
96. Guy Fronstin letter dated 4-17-06
99. Jeffrey Epstein Polygraph Results
100. Victim's GED testing information and results
101. JEJE, Inc. Passenger Manifest
102. Hyperion Air Passenger Manifest
103. Flight information for Dana Burns
104. Passenger List Palm Beach flights 2005
105. Jeffrey Epstein notepad notes
108. Reiter letter to Krisher dated 5-1-06
110. Alexandra Hall Police Report dated 11-28-04
111. Compulsory Medial Examination of victim, CMA
112. Victim's school records and transcripts
113. Victim Notification letter dated 7-9-08
114. Victim's employment records from IHOP
115. Police report of Juan Alessi theft at Jeffrey Epstein's home
116. Victim's Medical Records from Milton Girls Juvenile Facility
117. Victim's Medical Records from Dr. Randee Speciale
118. Victim's Medical Records from Wellington Regional Hospital
119. Victim's Medical Records from St. Mary's Medical Center
120. Victim's Medical Records from United Health

121. All surveillance conducted by law enforcement on Jeffrey Epstein's home
122. Emails received from Palm Beach Records related to Jeffrey Epstein
123. All items listed on the Palm Beach Police Property Report Lists
124. All items taken in the execution of the search warrant of Jeffrey Epstein's home:
358 El Brillo Way, Palm Beach FL 33480
127. All documents produced by Palm Beach Police Department prior to the deposition of Detective Recarey
128. Photographs of all persons listed on Victims' Witness Lists
129. Statements, deposition transcripts, videotaped depositions and transcripts taken in connection with this and all related cases and exhibits thereto
130. Any and all expert witness reports and/or records generated in preparation for this litigation by any party to this cause
132. Curriculum vitae of Dr. Ryan Hall
133. Any articles or publications of Dr. Ryan Hall
134. Any articles or publications of Dr. Richard Hall
135. Any articles or publications of Dr. L. Dennison Reed
136. All items and documentation review by Dr. L. Dennison Reed
137. Transcript and video (DVD) of IME of Victims
138. All exhibits to Dr. L. Dennison Reed's Deposition
139. All exhibits to Dr. Richard Hall's Deposition
140. All items and documents reviewed by Dr. Richard Hall
141. All items and documents reviewed by Dr. Ryan Hall
142. Demonstrative aids and exhibits including, but not limited to, anatomical charts, diagrams and models, surveys, photographs and similar material including blow-ups of theforesaid items.-
143. Any and all mortality tables

B. Any argument, statement, evidence, or comment related to the criminal charges to which Epstein plead or any alleged investigation(s).

Since it is irrelevant and immaterial to this suit, Epstein requests that Edwards be precluded from using any pleading, testimony, remarks, questions, documents, exhibits, items, investigation results, or arguments related to any criminal investigations or charges as related to Epstein that might inform the jury of such facts and that Edwards further instruct his witnesses to omit such facts from their testimony. This is improper for trial as it is impermissibly being offered as “relevant solely to prove bad character” and would unduly inflame and prejudice the minds of the jury against Epstein. § 90.404(2) (a) FLA. STAT. (2013). “‘Unfair prejudice’ has been described as ‘an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.’ This rule of exclusion ‘is directed at evidence which inflames the jury or appeals improperly to the jury’s emotions.’” *Wright v. State*, 19 So. 3d 277 (Fla. 2009); *Byrd v. BT Foods, Inc.*, 26 So. 2d 600 (Fla. 4th DCA 2009). See also *Canales v. Compania De Vapores Realma, S.A.*, 564 So. 2d 1212 (Fla. 3d DCA 1990) (Any probative value of testimony about marriage proposal plaintiff purportedly made offering money to woman to marry him so that he could avoid deportation, on issue of plaintiff’s credibility, was far outweighed by its prejudicial effect); *DeSantis v. Acevedo*, 528 So. 2d 461 (Fla. 3d DCA 1988) (Probative value of the defendant’s cross-examination of the plaintiff and his main witness about prior unrelated incidents that insinuated that both the plaintiff and the witness had been dishonest was outweighed by prejudicial nature of questions.). This is an abuse of process and malicious prosecution case that Edwards is prosecuting against

Epstein. This information has no probative value whatsoever to the elements necessary to prove either claim, or Epstein's defense.

C. Any reference to Epstein's Assertion of his Fifth Amendment Privilege to questions that are not directly related to the issues in this case.

Epstein asserted his Fifth Amendment Privilege in response to discovery in this matter when the requested information concerned allegations of sexual exploitation of minors. Said allegations are undeniably irrelevant to the case at hand pursuant to § 90.401 of the *Florida Statutes*, and to the extent that Edwards could possibly try to establish that this line of discovery is relevant, any alleged "probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence." § 90.403 FLA. STAT. (2013); *Dailey v. Multicon Development, Inc.*, 417 So.2d 1106, 1107 (Fla. 4th DCA 1982). "'Unfair prejudice' has been described as 'an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.' This rule of exclusion 'is directed at evidence which inflames the jury or appeals improperly to the jury's emotions.'" *Wright v. State*, 19 So. 3d 277 (Fla. 2009); *Byrd v. BT Foods, Inc.*, 26 So. 2d 600 (Fla. 4th DCA 2009). Were any of the above facts made known to the jury, it would be highly improper and prejudicial to Epstein. Moreover, this evidence is being offered, impermissibly, as "solely to prove bad character."

D. The use of any derogating adjectives when referencing Epstein.

Edwards has continually referenced Epstein by the use of provoking and offensive misnomers, such as "billionaire pedophile" or "convicted child molester." Such commentary is inappropriate, and if Edwards did so at trial it would irrefutably be done

solely to impermissibly “inflame[] the jury or appeal[] improperly to the jury’s emotions.”” *Wright v. State*, 19 So. 3d 277 (Fla. 2009).

E. Any reference to any and all cases against Epstein in which Edwards was not counsel of record.

While a limited amount of the information regarding Edwards’s prosecution of cases against Epstein is germane to the issues in this case, any mention of or use of information from any other case is not. Such information is unfairly prejudicial. *Honeywell Intern., Inc. v. Guilder*, 23 So. 3d 867 (Fla. 3d DCA 2009). As seen from Edwards’s trial exhibit list items above, it is apparent that he intends to use as much information from other cases as possible. This evidence is undeniably irrelevant to this cause of action and is solely being used in an effort to impermissibly “inflame[] the jury or appeal[] improperly to the jury’s emotions,” or “solely to prove bad character.” *Wright v. State*, 19 So. 3d 277 (Fla. 2009); *Byrd v. BT Foods, Inc.*, 26 So. 2d 600 (Fla. 4th DCA 2009). “(I)f the introduction of the evidence tends in actual operation to produce a confusion in the minds of the jurors in excess of the legitimate probative effect of such evidence if it tends to obscure rather than illuminate the true issue before the jury then such evidence should be excluded.” *City of Miami v. Calandro*, 376 So. 2d 271, 272 (Fla. 3d DCA 1979) (citing *Perper v. Edell*, 44 So. 2d 78 (Fla. 1949)). *See also Agrofollajes, S.A. v. E.I. Du Pont De Nemours & Co., Inc.*, 48 So. 3d 976 (Fla. 3d DCA 2010) (probative value outweighed by prejudicial effect when evidence improperly becomes focus of trial); *Maldonado v. Allstate Ins. Co.*, 789 So. 2d 464 (Fla. 2d DCA 2001) (probative value of bicyclist’s status as an illegal alien was outweighed by unfair prejudice, confusion of the issues, and misleading of the jury, as the evidence and

instruction concerning status as an illegal alien improperly changed the focus of the jury's attention).

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served, via electronic service, to all parties on the attached service list, this September 27, 2013.

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