

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

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

vs.

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

Defendant/Counter-Plaintiff.

CASE NO.: 502009 CA 040800XXXXMBAG

JUDGE: HAFELE

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S
MOTION TO STRIKE DEFENDANT/COUNTER-PLAINTIFF BRADLEY
EDWARDS'S NOTICE OF HEARING**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel and pursuant to Rule 1.090(d) of the *Florida Rules of Civil Procedure*, hereby files his Motion to Strike Defendant/Counter-Plaintiff Bradley Edwards's ("Edwards") Notice of Hearing for June 6, 2017, which was filed and served on June 2, 2017. In support thereof, Epstein states:

STATEMENT OF FACTS

On May 26, 2017, Edwards's counsel, Mr. Scarola, sent an electronic correspondence to undersigned counsel for Epstein, inquiring if she were available for a hearing June 6, 7, or 8 on Edwards's Motion to Set a Trial Date. Undersigned counsel responded that she was starting trial on June 6, and offered June 21, 2017, or any date during the last week of June, as alternative dates for the hearing. Counsel for Edwards responded that "Mr. Scarola is not available June 9 through June 27" and the Judge's

calendar was suspended June 28 and 29. Undersigned stated that she needed to be present at the hearing, as the hearing is to schedule a trial date, and offered in turn that perhaps one of Edwards's co-counsels or another attorney in Mr. Scarola's office could stand in during a hearing in June in Mr. Scarola's absence. No response to this offer was received. True and correct copies of these communications are attached hereto as composite "Exhibit A."

Next, on May 31, 2017, after work hours, Edwards's counsel sent another email regarding June 6, 7, and 8 as proposed hearing dates for his Motion to Set a Trial Date, stating therein that if undersigned failed to respond, then the hearing would be set for June 7 or 8. Undersigned again responded, within minutes, and reiterated that she was unavailable on those dates due to starting trial on June 6. On June 1, 2017, communications continued, and notwithstanding undersigned's explanation that she was starting a criminal jury trial on June 6, a Notice of Hearing for Tuesday, June 6, 2017 was served upon counsel on the afternoon of June 2, 2017. True and correct copies of these communications are attached hereto as composite "Exhibit B," and a true and correct copy of the Notice of Hearing is attached hereto as "Exhibit C."

MEMORANDUM OF LAW

Rule 1.090(d) of the *Florida Rules of Civil Procedure* provides that "[a] copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing." FLA. R.CIV. P. 1.090 (2017). *See also Devoe & Raynolds Co., Inc. v. KDS Paint Co.*, 382 So.2d 126, 127 (Fla. 4th DCA 1980) (holding that "[a]bsent extraordinary circumstances, proper notice should include written notice served a reasonable time

before the time specified for the hearing.”). While there are no hard rules regarding how much time constitutes “reasonable time” for service of notice before hearing, two (2) business days has consistently been held to be unreasonable. *Harrel v. Harrel*, 682 So. 2d 635 (Fla. 2d DCA 1996); *Finn v. Elliott*, 961 So. 2d 384 (Fla. 2d DCA 2007).

Likewise, the local rules applicable hereto require at least five (5) business days’ notice of a hearing. As such, pursuant to Local Rule Number 4 of the Fifteenth Judicial Circuit, and the Palm Beach County Bar Association’s Standards for Professional Courtesy and Civility, this unilaterally set hearing, with two (2) business days’ notice, is improper and must be stricken and the hearing reset to a time when counsel can be present. Local Rule 4 of the Fifteenth Judicial Circuit governs Uniform Motion Calendar and provides, in relevant part, that hearings shall be set and noticed pursuant to the “Standards of Professional Courtesy and Civility which have been endorsed by the judges of the Fifteenth Judicial Circuit.” *See Local Rule No. 4, In Re: Uniform Motion Calendar*, attached hereto as “Exhibit D.” The Standards for Professional Courtesy and Civility provide the following with respect to scheduling hearings: “As a general rule, actual notice should be given that is no less than five (5) business days for in-state depositions, ten (10) business days for out-of-state depositions and five (5) business days for hearings.” *See Palm Beach County Bar Association’s Standards for Professional Courtesy and Civility* (emphasis added).

In the instant case, Edwards fails to comport with the basic requisites for setting this hearing not only by giving two (2) business days’ notice, but also by setting it on a date on which he is well-aware that undersigned will be in trial in another jurisdiction and unable to attend the hearing. As such, it must be reset to a time during which counsel can

be present. It is likewise noteworthy to illustrate that this Court is currently scheduling Jury Trials for the trial period of January 2018 through March 2018. As such, a two-week delay to set a trial date does not prejudice Edwards. Consequently, Edwards's Notice of Hearing should be stricken and this hearing reset, upon proper notice, on a date on which counsel can be present.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all parties listed below, via Electronic Service, this June 2, 2017.

/s/ Tonja Haddad Coleman
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CASE NO. 502009CA040800XXXXMBAG

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Tonja Haddad Coleman

From: Mary E. Pirrotta <MEP@Searcylaw.com>
Sent: Friday, May 26, 2017 10:38 AM
To: Tonja Haddad Coleman
Subject: RE: EDWARDS ADV. EPSTEIN--SERVICE OF COURT DOCUMENTS - 502009CA040800XXXXMBAG (File #: 291874)

Mr. Scarola is not available 6/9-6/27 and Judge Hafele's calendar is suspended 6/27, 6/28 and 6/29.

What is your availability the first two weeks of July.

Thank you.

From: Tonja Haddad Coleman [mailto:tonja@tonjahaddad.com]
Sent: May 26, 2017 10:35 AM
To: Mary E. Pirrotta <MEP@Searcylaw.com>
Cc: jgoldberger@agwpa.com; smahoney@agwpa.com; marc@nuriklaw.com; staff.efile@pathtojustice.com; Dee@FredHaddadLaw.com; Fred@FredHaddadLaw.com; wcblaw@aol.com; wcblawasst@gmail.com
Subject: Re: EDWARDS ADV. EPSTEIN--SERVICE OF COURT DOCUMENTS - 502009CA040800XXXXMBAG (File #: 291874)

No - as I said in my email below I start trial June 6.

Tonja Haddad Coleman, Esq.
Tonja Haddad, PA
Advocate Building
315 SE 7th Street
Suite 301
Fort Lauderdale, FL 33301

On May 26, 2017, at 10:28 AM, Mary E. Pirrotta <MEP@Searcylaw.com> wrote:

Ms. Coleman:
Are you available June 5, 6, 7 or 8?

by unauthorized persons. This communication originates from the law firm of Searcy Denney Scarola Barnhart & Shipley, P.A. and is protected under the Electronic Communication Privacy Act, 18 U.S.C. S2510-2521. The information contained in this E-mail message is privileged and confidential under Fla. R. Jud. Admin. 2.420 and information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. Personal messages express views solely of the sender and shall not be attributed to the law firm. If you received this communication in error, please notify the sender immediately by e-mail or by telephone at (800) 780-8607 and destroy all copies of the original message. Thank you.

<Motion to Expand Interrogatories-10411651.pdf>

Tonja Haddad Coleman

From: Tonja Haddad Coleman
Sent: Wednesday, May 31, 2017 6:43 PM
To: Nora J. Fried
Cc: jgoldberger@agwpa.com; smahoney@agwpa.com; marc@nuriklaw.com; staff.efile@pathtojustice.com; dee@fredhaddadlaw.co; fred@fredhaddadlaw.com; wcblaw@aol.com; wcblawasst@gmail.com
Subject: Re: EDWARDS ADV. EPSTEIN--SERVICE OF COURT DOCUMENTS - 502009CA040800XXXXMBAG (File #: 291874)

For the third time I start
Trial June 6 and am
Not available- this was repeatedly stated- there cannot be a hearing set on those days.
I am sorry it will not
Be heard before
Mr. Scarola's vacation for 3 weeks but my schedule does not permit it.
Confirm receipt please. I have sent this twice already.

Tonja Haddad Coleman, Esq.
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Fort Lauderdale, FL 33301

On May 31, 2017, at 6:08 PM, Nora J. Fried <njf@searcylaw.com> wrote:

Good afternoon. Just following up on Mary Pirrotta's email inquiring regarding availability for UMC on 6/7 or 6/8 while she is away on vacation. If I do not hear otherwise by noon tomorrow, 6/1/17, I will assume either date is acceptable.

Thank you.

Nora Fried
Legal Secretary

EXHIBIT B

Tonja Haddad Coleman

From: Tonja Haddad Coleman
Sent: Thursday, June 01, 2017 9:39 PM
To: Jack Scarola
Cc: Nora J. Fried; Mary E. Pirrotta; staff.efile@pathtojustice.com; wcblaw@aol.com; wcblawasst@gmail.com; Brad Edwards; Jack Goldberger
Subject: Re: EDWARDS ADV. EPSTEIN--SERVICE OF COURT DOCUMENTS - 502009CA040800XXXXMBAG (File #: 291874)

With all due respect Mr. Scarola no hearing in this case is ever simple. Moreover, I need to be at the hearing and I start trial June 6. Your three week vacation is not more important than my trial- you have countless partners who could stand in and cover for you while you're on vacation on June 21 or during the last week of June. I simply cannot appear next week.

Tonja Haddad Coleman, Esq.
Tonja Haddad, PA
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315 SE 7th Street
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Fort Lauderdale, FL 33301

On Jun 1, 2017, at 9:32 PM, Jack Scarola <JSX@SearcyLaw.com> wrote:

I called and left a message for you and received no response.

We are unwilling to wait a month or more to hold a very simple hearing to get the referenced matter set for trial, when that delay will undoubtedly limit the trial settings available to us.

There are at least four separate law firms directly and actively involved in the defense of this case. One representative from one of those firms should be more than capable of appearing in person or by telephone for the hearing that we will notice for a UMC hearing on June 6.

Thank you for your anticipated cooperation.

On Jun 1, 2017, at 8:18 AM, Tonja Haddad Coleman <tonja@tonjahaddad.com> wrote:

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

CASE NO.: 502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

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

Defendant(s).

AMENDED NOTICE OF HEARING

(Amended as to Motion only).

YOU ARE HEREBY NOTIFIED that the undersigned has called up for hearing the following:

DATE: June 6, 2017

TIME: 8:45 a.m.

JUDGE: Honorable Donald Hafele

PLACE: 205 N. Dixie Highway, West Palm Beach, FL 33401

ROOM #: 10-C

SPECIFIC MATTERS TO BE HEARD: Plaintiff's Motion to Set Case for Trial

✓

Counsel has conferred with all parties who may be affected by the relief sought in the motion in a good faith effort to resolve or narrow the issues raised.

Epstein v. Edwards
Case No.: 502009CA040800XXXXMBAG
Amended Notice of Hearing

Counsel has made reasonable efforts to confer with all parties who may be affected by the relief sought in the motion but has been unable to do so.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, on this 2nd day of June, 2017.



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Epstein v. Edwards
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Epstein v. Edwards
Case No.: 502009CA040800XXXXMBAG
Amended Notice of Hearing

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Epstein v. Edwards
Case No.: 502009CA040800XXXXMBAG
Amended Notice of Hearing

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"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Americans with Disabilities Act Coordinator, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Americans with Disabilities Act Coordinator, , por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwoseda, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte nan 7 jou anvan dat ou gen randevou pou parèt nan tribunal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribunal la mwens ke 7 jou; si ou gen pwoblèm pou w tandé oubyen pale, rele 711."

Rev: 8/20/15

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

Local Rule No. 4*

IN RE: UNIFORM MOTION CALENDAR

Pursuant to the authority conferred by rule 2.215(e), Fla. R. Jud. Admin., it is
ORDERED as follows:

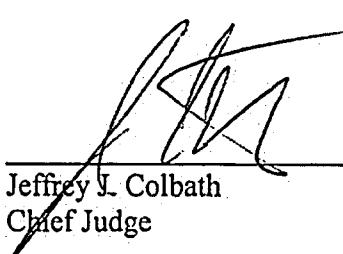
1. Circuit judges in each division shall conduct a uniform motion calendar on days and at a time specified by the judges of the division.
2. Prior to setting a matter on the Uniform Motion Calendar, the attorney noticing the motion for hearing shall attempt to resolve the matter and shall certify the good faith attempt to resolve.
3. The term "attempt to resolve the matter" in paragraph 2 shall require counsel to make reasonable efforts to actually speak to one another (in person or via telephone) and engage in reasonable compromises in a genuine effort to resolve or narrow the disputes before seeking court intervention. All parties are to act courteously and professionally in the attempted resolution of the disputes prior to setting a hearing.
4. All notices of hearings for matters scheduled on the Uniform Motion Calendar shall set forth directly above the signature block, the below certifications without modification and shall designate with a check mark or other marking the specific certification which applies:

Counsel has conferred with all parties who may be affected by the relief sought in the motion in a good faith effort to resolve or narrow the issues raised.

Counsel has made reasonable efforts to confer with all parties who may be affected by the relief sought in the motion but has been unable to do so.

5. Failure to make a good faith attempt at resolving the issues may, in the court's discretion, result in the motion being stricken from the Uniform Motion Calendar and/or the imposition of sanctions. The court may waive the good faith attempt at resolving the issues in appropriate circumstances.
6. **To the extent possible, counsel shall advise the Court in advance of the hearing of cancellation, or resolution of some or all of the issues raised by the motion.**
7. Hearings shall be limited to ten minutes per case. If two parties, each side shall be allotted five minutes. If more than two parties, the time shall be allocated by the Court. The ten-minute time limitation shall include the time necessary for the Court to review documents, memoranda, case authority, etc.
8. The moving party must furnish the court a copy of the motion to be heard together with a copy of the notice of hearing. Also, all parties shall furnish the Court with copies of all documents, pleadings and case authority which they wish the Court to consider.
9. **SCHEDULING --** Except in the criminal division, counsel shall not make appointments with the Court's judicial assistant but shall notice opposing counsel pursuant to the applicable rules of civil procedure and the Standards of Professional Courtesy and Civility which have been endorsed by the judges of the Fifteenth Judicial Circuit.
10. The courtroom deputy shall call cases for hearing in the order in which counsel signed up on the sheet posted outside the hearing room. Failure of any party to appear at the time set for the commencement of the calendar shall not prevent a party from proceeding with the hearing. If a party called for hearing chooses to wait for an absent party, the matter will be passed over but shall retain its position on that day's calendar.

DONE and SIGNED in Chambers at West Palm Beach, Palm Beach County, Florida,
this _____ day of 6/29/, 2015.



Jeffrey L. Colbath
Chief Judge

*Amends Local Rule 4 approved in 1991. Amendments (in bold) approved by the Supreme Court of Florida, June 17, 2015.