

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: HAFELE

vs.

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

Defendants/Counter-Plaintiff,

**PLAINTIFF/COUNTER-DEFENDANT JEFFREY EPSTEIN'S OMNIBUS
MOTION IN LIMINE**

Plaintiff/Counter-Defendant Jeffrey Epstein ("Epstein"), by and through his undersigned counsel, herein moves for an Order *in Limine* precluding Defendant/Counter-Plaintiff Bradley Edwards ("Edwards") and his Counsel from making any mention or use of the below-listed items/matters/witness testimony at trial¹. In support thereof, Epstein states:

INTRODUCTION

The pleadings in this matter establish that Mr. Edwards is intent on avoiding the actual facts he must prove to establish his sole remaining claim of Malicious Prosecution against Mr. Epstein. Instead, Edwards is seeking to present to the jury prior alleged bad acts of Epstein, completely separate and apart from the accusation made against Epstein in this lawsuit. Plaintiff has no evidence, nor can he prove, that Mr. Epstein lacked probable cause at the time he filed his lawsuit against Mr. Edwards. In its place, Edwards is creating a different case that relates, not to

¹ This Motion only includes items known to Epstein as of the date of filing this Motion pursuant to this Court's Order in open Court on September 15, 2017, as there are still outstanding Discovery Motions and depositions scheduled for which an order *in limine* precluding evidence may be required.

what information Mr. Epstein had or relied upon in filing suit, or any other element of his cause of action, but instead to irrelevant and unproven allegations made by others against Mr. Epstein; allegations or cases that have no bearing on the issues or elements of Malicious Prosecution.

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). Consequently, in the case at hand, Epstein requests that this Court enter an Order precluding any reference to the below-listed matters/items in each sub-category.

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

The items listed below that appear on Edwards's Trial Exhibit List 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. (2016); *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).

Additionally, it is well-settled law that evidence of prior convictions, acquittals or arrests is irrelevant in a civil action and thus inadmissible. *Eggers v. Phillips Hardware Company*, 88 So. 2d 507 (Fla.1956); *Kelley v. Mutnich*, 481 So. 2d 999, 1001 (Fla. 4th DCA 1986). As such, Epstein’s conviction, as well as any testimony or evidence of any other criminal investigation, is inadmissible. Here, the below-listed items undeniably have no bearing on Edwards’s Malicious Prosecution claim against Epstein. In fact, the repeated references to “victim” in the list below prove that; as the **only alleged victim in this matter** is Mr. Edwards. While it is clear from Edwards’s Exhibit List that Edwards would like to re-litigate his previous cases against Epstein, every other case in which Mr. Epstein was sued, and attempt to prejudice and infame the jury with criminal accusations, these items listed below are clearly intended to do little more than unfairly inflame and prejudice the jury with irrelevant information; none of which is necessary to a Malicious Prosecution case, or germane to the elements that Edwards must prove in this case to prevail.

Finally, the below-listed items should also be excluded on the following grounds: Relevance; Prejudice; Confusion; Misleading; Hearsay; Impermissible/Inadmissible Character Evidence; and Impermissible/Inadmissible Evidence of other Crimes, Wrongs, or Acts; Confidential Information of Third Parties; Confidential Financial Information; Vague; and Overbroad.

1. All applicable criminal statutes.
4. Video of Jeffrey Epstein's home and route from victim to Epstein's home.

5. Order confirmation from Amazon.com for purchase of books "SM 101: A Realistic Introduction," "Slave Craft: Roadmap for Erotic Servitude-Principles, Skills and Tools" and "Training Miss Abernathy: A Workbook for Erotic Slaves and Their Owners."
6. Non-Prosecution Agreement.
7. Jane Doe 102 Complaint.
8. Messages taken from message pads found at Epstein's home.
9. Documents related to Jeffrey Epstein produced by Alfredo Rodriguez.
24. Jeffrey Epstein flight logs. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
10. Jeffrey Epstein's phone records. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
11. [REDACTED] phone records. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
12. Jail Visitation Logs.
13. Jeffrey Epstein's probation file.
14. All probable cause affidavits related to criminal investigation of Jeffrey Epstein.
15. All evidence, information and documents taken or possessed by FBI related to criminal investigation of Jeffrey Epstein.
16. Victims' statements to the FBI related to criminal investigation of Jeffrey Epstein.
17. Video of Search Warrant of Jeffrey Epstein's home being executed.
18. Application for Search Warrant of Jeffrey Epstein's home.
19. All records of homes, properties, bank accounts and any and all records related to Jeffrey Epstein's assets. Also objected to as Improper/Confidential financial information.
20. List of corporations owned by Jeffrey Epstein. Also objected to as Improper/Confidential financial information.
25. All documents evidencing relationship between Jeffrey Epstein and Jean Luc Brunel.

26. All documents evidencing relationship between Jeffrey Epstein and MC2 or any modeling agencies.
27. Yearbooks of Jane Doe.
28. [REDACTED].
29. [REDACTED]
30. [REDACTED]
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. Also objected to as Improper/Confidential financial information.
34. The Palm Beach State Attorney's Criminal file against Jeffrey Epstein.
35. All documents related to Jeffrey Epstein's 6/30/08 conviction.
36. Jeffrey Epstein's criminal plea colloquy.
37. Public records from the Department of Corrections related to Jeffrey Epstein.
38. Records from the Florida Department of Law Enforcement related to Jeffrey Epstein.
39. All statements made by Jeffrey Epstein. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
40. List of properties and vehicles in Larry Visoski's name. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
41. All of Jeffrey Epstein's Responses to Requests for Production, Requests for Admission, Answers to Interrogatories in cases 08-80119, 08-80232, 08-80380, 08- 80381, 08-80994, 08-80811, 08-80893, 09-80469, 09-80591, 09-80656, 09-80802, 09-81092.
42. All discovery related responses of Jeffrey Epstein in cases 08-80119, 08-80232, 08-80380, 08-80381, 08-80994, 08-80811, 08-80893, 09-80469, 09-80591, 09-80656, 09-80802, 09-81092
43. Jeffrey Epstein's Answers and Affirmative Defenses in all civil cases against him. **This**

is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.

44. All Complaints in which Jeffrey Epstein was a plaintiff or defendant.

45. Jeffrey Epstein's Deposition testimony and discovery responses in cases 08- 80119, 08-80232, 08-80380, 08-80381, 08-80994, 08-80811, 08-80893, 09-80469, 09- 80591, 09-80656, 09-80802, 09-81092.

46. Jeffrey Epstein's Deposition testimony and discovery responses in State Court cases LM v. Jeffrey Epstein, Case No. 502008CA028051XXXXMB AB and [REDACTED] v. Jeffrey Epstein, Case No. 502008CP003626XXXXMB. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

47. Jeffrey Epstein's Deposition testimony and discovery responses in State Court case Jeffrey Epstein v. Scott Rothstein, et al. CASE NO.: 502009CA040800XXXXMBAG. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

48. Any and all newspaper articles, online articles or publications related to Jeffrey Epstein. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

49. Report and Analysis of Jeffrey Epstein's assets. Also objected to as irrelevant, Improper/Confidential financial information.

50. Video footage (DVD) of walk through site inspection of Jeffrey Epstein's home. Also objected to as irrelevant, Improper/Confidential financial information.

51. Photos of all of Jeffrey Epstein's properties, cars, boats and planes. Also objected to as irrelevant, Improper/Confidential financial information.

52. Probable Cause Affidavits prepared against Jeffrey Epstein and [REDACTED].

53. Audio tape of [REDACTED].

54. Photographs, videos and books taken in the search warrant of Jeffrey Epstein's home. Also objected to as Improper/Confidential financial information.

55. Documents related to or evidencing Jeffrey Epstein's donations to law enforcement.

56. Victim Notification Letter from US Attorney's Office to Victim. **This is also so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification. Edwards is the only alleged victim in this case.**

57. Expert Dr. L. Dennison Reed's Report of Victim. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification. Edwards is the only alleged victim in this case, and this doctor is not listed as Edwards's doctor or as an expert witness in this matter.**
58. Palm Beach Police Department Incident Report dated 4/20/06.
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. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
62. Passenger lists for flights taken by Jeffrey Epstein. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
63. Letter from Jeffrey Epstein to Alberto Pinto regarding house island project. Also objected to as Improper/Confidential financial information.
64. Jeffrey Epstein's bank statements. Also objected to as Improper/Confidential financial information.
- . * Jeffrey Epstein's tax returns (this item not numbered on Edwards's Trial Exhibit List).
65. MC2 emails involving communications of Jeffrey Epstein, Jeff Puller, [REDACTED] Pappas Suat, Jean Luc Brunel and Amanda Grant.
66. DVD of plea and colloquy taken on 6-30-08.
67. Transcript of plea and colloquy taken on 6-30-08.
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.
72. No Contact Orders entered against Jeffrey Epstein.

73. Criminal Score Sheet regarding Jeffrey Epstein.
74. Documents evidencing Jeffrey Epstein's Community Control and Probation.
75. Jeffrey Epstein's Sex Offender Registration.
76. Jeffrey Epstein's Booking photograph.
77. CAD calls to [REDACTED]
78. List of Jeffrey Epstein's House contacts.
79. Documents related to Jeffrey Epstein's investments. Also objected to as Improper/Confidential financial information.
80. Letter from Chief Michael Reiter to Barry Krischler.
81. List of planes owned by Jeffrey Epstein. Also objected to as Improper/Confidential financial information.
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. Also objected to as possible attorney/client privilege as there is no other identifying information regarding this letter, such as its addressee.
88. All subpoenas issued to State Grand Jury.
89. Documents related to the rental of a vehicle for [REDACTED]
90. [REDACTED] Documents.
91. Documents related to property searches of Jeffrey Epstein's properties. Also objected to as Improper/Confidential financial information.
92. Arrest Warrant of [REDACTED].
93. Police report regarding [REDACTED] picking up money dated 11-28-04.
94. List of Trilateral Commission Members of 2003.

95. Alan Dershowitz Letter dated 4-19-06 and Statute 90.410. Also objected to as possible attorney/client privilege.

96. Guy Fronstin letter dated 4-17-06. Also objected to as possible attorney/client privilege.

97. Jeffrey Epstein Account Information. Also objected to as Improper/Confidential financial information.

98. Jeffrey Epstein Criminal Closeout Sheet.

99. Jeffrey Epstein Polygraph Test and Results.

100. Victim's GED testing information and results. **Edwards is the only alleged victim in this case.**

101. JEJE, Inc. Passenger Manifest. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

102. Hyperion Air Passenger Manifest. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

103. Flight information for [REDACTED].

104. Passenger List Palm Beach flights 2005. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

105. Jeffrey Epstein notepad notes. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

106. Pleadings of Jane Doe 1 and 2 v. US case.

107. Jeffrey Epstein 5th Amendment Speech. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

108. Reiter letter to Krisher dated 5-1-06.

109. Jail receipts of Jeffrey Epstein.

110. [REDACTED] Police Report dated 11-28-04.

111. Compulsory Medial Examination of victim, CMA. **Edwards is the only alleged victim**

in this case.

112. Victim's school records and transcripts. **Edwards is the only alleged victim in this case.**

113. Victim Notification letter dated 7-9-08. **Edwards is the only alleged victim in this case.**

114. Victim's employment records from IHOP. **Edwards is the only alleged victim in this case.**

115. Police report of Juan Alessi theft at Jeffrey Epstein's home.

116. Victim's Medical Records from [REDACTED]. **Edwards is the only alleged victim in this case.**

117. Victim's Medical Records from [REDACTED]. **Edwards is the only alleged victim in this case.**

118. Victim's Medical Records from [REDACTED]. **Edwards is the only alleged victim in this case.**

119. Victim's Medical Records from [REDACTED]. **Edwards is the only alleged victim in this case.**

120. Victim's Medical Records from [REDACTED]. **Edwards is the only alleged victim in this case.**

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.

125. All copies of convictions related to Jeffrey Epstein.

126. Jeffrey Epstein criminal records.

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. **Edwards is the only alleged victim in this case.**

129. Statements, deposition transcripts, videotaped depositions and transcripts taken in connection with this and all related cases and exhibits thereto. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

130. Any and all expert witness reports and/or records generated in preparation for this litigation by any party to this cause. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

131. Curriculum vitae of Dr. Ryan Hall.

132. Any articles or publications of Dr. Ryan Hall.

133. Any articles or publications of Dr. Richard Hall.

134. Any articles or publications of Dr. L. Dennison Reed.

135. All items and documentation review by Dr. L. Dennison Reed.

136. Transcript and video (DVD) of IME of Victims.

137. All exhibits to Dr. L. Dennison Reed's Deposition.

138. All exhibits to Dr. Richard Hall's Deposition.

139. All items and documents reviewed by Dr. Richard Hall.

136. All items and documents reviewed by Dr. Ryan Hall.

137. Demonstrative aids and exhibits including, but not limited to, anatomical charts, diagrams and models, surveys, photographs and similar material including blow-ups of the foresaid items. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

138. All pleadings and attachments in the action under the Crime Victims Rights Act prosecuted by Bradley Edwards on behalf of victims of Epstein's criminal molestations.

139. All attachments to Edwards's Motion for Summary Judgment.

140. All time records and hourly billing documentation produced in discovery. Also objected to unless and until such time as liability for attorneys' fees is determined.

141. All deposition testimony and discovery responses by Epstein submitted in this action. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**

- 142. All pleadings filed by Epstein in the Rothstein Bankruptcy Proceeding.
- 143. All submissions by Epstein in connection with the Rothstein deposition.
- 144. All Settlement Agreements between Epstein and victims of his sexual molestations.
- 145. Phone journal taken from Epstein's home and produced to the FBI by Alfredo Rodriguez.
- 146. Photo depicting [REDACTED], Ghislaine Maxwell, and Prince Andrew.
- 147. All flight logs for any Epstein owned or controlled aircraft. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
- 148. Epstein emails or correspondence with anyone related in any way to this case or related cases. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this exhibit identification.**
- 149. Evidence of contributions to the Palm Beach Police Department.

In addition to being irrelevant to the case at bench, many of the documents/items listed above are inadmissible hearsay. "Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." § 90.801(c) FLA. STAT. (2014). Next, even assuming that Edwards could get past the hearsay nature of the documents themselves, the information contained within the documents listed above is also hearsay, for which there is not an exception, as many of them contain contents that are entirely based upon prior statements made by individuals and other extrinsic documents; all of which undeniably do not fall into an exception. *See Reichenberg v. Davis*, 846 So. 2d 1233 (Fla. 5th DCA 2003) ("[t]he problem here is that, in both reports, the authors simply related the substance of what the witnesses had told the authors. These witness's statements, even though contained within the business records, do not fall within the exception, because they were not based upon the personal knowledge of an agent of the 'business.'" *Id.* at 1234). *See also Harris v. Game and Fresh Water Fish Com'n*, 495 So. 2d 806, 808 (Fla. 1st DCA 1986); *Van*

Zant v. State, 372 So. 2d 502 (Fla. 1st DCA 1979). Accordingly, any hearsay documents, and any reference or testimony related thereto, should be excluded.

Next, these documents listed above irrefutably contain opinion statements about Epstein who is party to, and possible witness in, this case, rendering it improper opinion testimony about the credibility of a witness. *Alvarado v. State*, 521 So. 2d 180 (Fla. 3d DCA 1988). In *Childers v. State*, 936 So. 2d 585 (Fla. 1st DCA 2006), the court was faced with a similar issue, and in denying the admission of the information/documents, avowed:

admission of the notice would have been similar to admitting an opinion by the State concerning Junior's character, truthfulness, and credibility. Such opinion testimony regarding a witness' reputation for truthfulness is clearly inadmissible. See *Antone v. State*, 382 So.2d 1205, 1213-14 (Fla. 1980) (holding improper a question of a witness which sought "to elicit the individual and personal view of the witness."); *Hernandez v. State*, 575 So.2d 1321, 1322 (Fla. 4th DCA 1991) (holding that it was reversible error to admit testimony of police officers and teacher that sexual abuse victim was truthful. "A witness invades the jury's exclusive province when that witness gives his or her personal views of the credibility of another witness."); *Alvarado v. State*, 521 So.2d 180, 181 (Fla. 3d DCA 1988) (holding that an opinion of a witness concerning his or her belief as to the truthfulness of another witness "was clearly inadmissible."); *Morrison v. State*, 818 So.2d 432, 451 (Fla.2002) (holding that it was improper to allow personal opinion to establish reputation for truthfulness without laying a foundation based on knowledge of the witness' reputation in community for truthfulness); *Wyatt v. State*, 578 So.2d 811, 813 (Fla. 3d DCA 1991) (holding that section 90.405, Florida Statutes, does not permit opinion testimony regarding evidence of character); Ehrhardt, Florida Evidence § 405.2 at 258 ("Opinion testimony concerning a person's character has traditionally been inadmissible on the basis that it is too unreliable; it will be tainted by the underlying prejudice and bias of the person expressing the opinion.").

Id. at 595-96.

Finally, the above-listed documents would cause unfair prejudice. "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 (emphasis added)). Consequently, the above referenced items should be excluded.

B. Any Argument, Statement, Evidence, or Comment Related to the Criminal Charges to which Epstein Plead or any Alleged Criminal Investigation(s).

Since it is inadmissible, 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 in any way to any criminal investigations, accusations, or criminal 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. It is rudimentary that evidence of prior convictions, acquittals or arrests are inadmissible; especially in a civil action. *Eggers v. Phillips Hardware Company*, 88 So. 2d 507 (Fla.1956); *Kelley v. Mutnich*, 481 So. 2d 999, 1001 (Fla. 4th DCA 1986). As such, Epstein's conviction, as well as any testimony or evidence of any other criminal investigation, is inadmissible, 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. (2016). "'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).

“[E]ven if relevant, a trial court may not permit the collateral crime evidence to become an impermissible feature of the trial.” *Jacobs v. Atl. Coast Ref., Inc.*, 165 So. 3d 714, 718 (Fla. 4th DCA. 2015), *reh'g denied* (June 9, 2015) (citing *Durousseau v. State*, 55 So.3d 543, 551 (Fla. 2010)). “Collateral crimes evidence becomes a feature of the trial when inquiry into the collateral crimes transcends the bounds of relevancy to the charge being tried and the prosecution devolves from development of facts pertinent to the main issue of guilt or innocence into an assault on the character of the defendant.” *Id.* (citing *Seavey v. State*, 8 So. 3d 1175, 1177 (Fla. 2d DCA 2009) (internal quotations and citation omitted)). As this Court is aware, this is a Malicious Prosecution case that Edwards is prosecuting against Epstein. As such, this information has no probative value whatsoever to the elements necessary to prove either Edwards’s claim or Epstein’s defense. Furthermore, the criminal charges to which Epstein plead are not related to the underlying cases that Edwards was prosecuting against Epstein, as Edwards’s clients were not alleged victims in the criminal case. Moreover, the criminal charges had no bearing *whatsoever* on the undertakings by Edwards and his law partner Scott Rothstein while RRA was prosecuting the cases. Accordingly, any pleading, testimony, remarks, questions, documents, exhibits, items, investigation results, or arguments related in any way to any criminal investigations, accusations, or criminal charges related to Epstein should be precluded from trial.

C. Any reference to Epstein’s Assertion of his Fifth Amendment Privilege to Questions that were not Directly Related to the Elements or Defenses to this Cause of Action.

Epstein did not assert any privilege or otherwise refuse to answer any question related to why he filed a lawsuit against Edwards. Rather, Epstein asserted his Fifth Amendment Privilege in response to discovery and deposition questioning in this matter when the requested

information concerned allegations of sexual exploitation of minors. While these questions were clearly designed to inflame and prejudice this case, 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, “solely to prove bad character.”

Finally, the law is clear that a party cannot be found liable solely upon the basis of reliance on Fifth Amendment; there must be other evidence. *Baxter v. Palmigiano*, 425 U.S. 308 (1976); *Lasalle Banks Lake View v. Seguban*, 54 F.3d 387 (7th Cir. 1995); *National Acceptance Co. of America v. Bathalter*, 705 F.2d 924 (7th Cir. 1963) (assertion of Fifth Amendment in an answer to a complaint does not constitute an admission of the allegations and does not relieve the plaintiff of the need to adduce proof). Here, Edwards is suing Epstein for Malicious Prosecution. When asked in deposition why he filed suit and upon what facts he based this decision, Epstein answered Edwards’s questioning; he **did not** invoke his rights as to the issues germane to this litigation. See *Deposition Transcript of Jeffrey Epstein*. When Edwards’s inquiry turned to questions regarding Epstein’s criminal case and the facts surrounding any allegations made by

females against Epstein, which are irrefutably **not** an issue in this civil case (or even necessary to an element of Edwards's causes of action), Epstein asserted his Fifth Amendment privilege.

Furthermore, as this Court is aware, Edwards is, and throughout this litigation has been, actively pursuing a quasi-criminal matter, *Doe v. United States*, in the United States District Court for the Southern District of Florida. In the *Doe* Case, claimants, through Edwards, are seeking to rescind Mr. Epstein's non-prosecution agreement. Mr. Edwards's stated goal in the *Doe* case is to expose Mr. Epstein to comprehensive criminal liability. It is readily apparent from the pleadings, discovery requests, witness list, and exhibit list filed in this matter, that Edwards is doing, and has done, little more in this case than use it as a tool through which to re-litigate closed cases or attempt to circumvent rules and constitutional privileges afforded to Epstein in an effort to further his motives in the *Doe* case. In the instant action, Edwards also seeks to deflect attention away from the glaring deficiencies in his case in chief with immaterial and irrelevant depiction of Mr. Epstein as someone culpable of numerous federal criminal offenses involving sexual misconduct with minor females, several of whom Mr. Edwards intends to call as witnesses in his case-in-chief. *See Exhibit and Witness list*. As such, any reference to Epstein's invocation of his Fifth Amendment privilege regarding questions concerning these immaterial and irrelevant issues should not be admitted.

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). Such name-calling constitutes improper conduct by counsel and reversible

error. *Schubert v. Allstate Ins. Co.*, 603 So. 2d 554 (Fla. 5th DCA 1992) (defense counsel's inflammatory and improper remarks to jury about plaintiff, his witnesses, and counsel warranted new trial.). Improper comments by trial counsel, **even when not objected to at trial**, constitute reversible error if they impair the jury's calm and dispassionate consideration of the evidence and result in an unfair trial. *Moore v. Taylor Concrete & Supply Co., Inc.*, 553 So. 2d 787 (Fla. 1st DCA 1989); *Nelson v. Reliance Insurance Co.*, 368 So. 2d 361 (Fla. 4th DCA 1978). As such, preventing Edwards from doing so at the outset can avoid such issues.

Likewise, Epstein's criminal conviction, and status as a registered sex offender, is inadmissible by law. *Eggers v. Phillips Hardware Company*, 88 So. 2d 507 (Fla.1956); *Kelley v. Mutnich*, 481 So. 2d 999, 1001 (Fla. 4th DCA 1986). As such, Epstein's conviction, as well as any testimony or evidence of any other criminal investigation, is inadmissible, 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, as would any pejorative that Edwards may choose to use. § 90.404(2) (a) FLA. STAT. (2016). As explained above, Edwards seeks to depict Mr. Epstein as someone culpable of numerous federal criminal offenses involving sexual misconduct with minor females to further his pursuits in this case and in the *Doe* case. Consequently, such inapposite commentary from Edwards, his counsel, or his witnesses, is impermissible.

■. Any Reference to any Cases Against Epstein Which were not Prosecuted by Bradley J. Edwards.

While it foreseeable that a limited amount of the information regarding Edwards's prosecution of the three cases against Epstein could potentially be germane to the issues in this case, it would be impermissible to use any such information solely 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). Moreover, any mention of or use of information from any other case is absolutely improper, as such information is unfairly prejudicial. *Honeywell Intern., Inc. v. Guilder*, 23 So. 3d 867 (Fla. 3d DCA 2009); *Long Term Care Found., Inc. v. Martin*, 778 So. 2d 1100, 1102-03 (Fla. 5th DCA 2001) (allegations in a different lawsuit against defendant were not relevant and were highly prejudicial “under section 90.403, Florida Statutes, any relevance the complaint might have had was outweighed by the unfair prejudice against the center. The complaint contained bare allegations against the center in the form of rank hearsay.”). “It is inconsistent with the notions of fair trial for the state to force a defendant to resurrect a prior defense against a crime for which the defendant is not on trial.” *Jacobs v. Atl. Coast Ref., Inc.*, 165 So. 3d 714 (Fla. 4th DCA. 2015) (finding that “because the prior case was settled, none of the allegations therein were proven.”).

As seen from Edwards’s trial witness list, and his exhibit list items above, it is apparent that he intends to use as much information from other cases as possible solely 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. ■■■ 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). Indeed, Edwards has not even listed his own three clients for whom he was prosecuting the cases against Epstein while a partner at RRA as witnesses in his case in chief; further establishing his intent.]

A trial court's discretion in determining the relevancy of evidence "is limited by the rules of evidence and applicable case law." *Thigpen v. United Parcel Servs., Inc.*, 990 So. 2d 639, 645 (Fla. 4th DCA 2008) (citing *Johnston v. State*, 863 So.2d 271, 278 (Fla.2003); *Hayes v. Wal-Mart Stores, Inc.*, 933 So. 2d 124, 126 (Fla. 4th DCA 2006); *Denville v. State*, 917 So. 2d 1058, 1059 (Fla. 4th DCA 2006); *Dixon v. State*, 911 So. 2d 1260, 1262 (Fla. 4th DCA 2005); *Reed v. State*, 883 So. 2d 387, 389 (Fla. 4th DCA 2004)). "Relevant evidence is inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice...." § 90.403 FLA. STAT. (2016). Here, these extrinsic cases are not relevant to the cause of action that Edwards has brought against Epstein and are merely intended to do little more than mislead the jury.

F. Testimony From Any Witness Without Direct, Firsthand Knowledge And Relevant Testimony Relating To The Elements Of The Cause Of Action And Defense In This Case.

It is evident from Edwards's discovery responses and pleadings filed in this matter that he would like to re-litigate his previous cases against Epstein, and by doing so attempt to inflame and unfairly prejudice the jury. Further evidence of this fact is readily ascertainable from Edwards's witness list, as many persons listed thereon have no connection to Edwards's Malicious Prosecution claim and their testimony is clearly irrelevant to the elements of such a claim. Their testimony is obviously 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 either a Malicious Prosecution case or a case in which Edwards was counsel of record.

Moreover, the above-mentioned witnesses do not have personal knowledge of this matter as required by § 90.604 of the *Florida Statutes*, which states in pertinent part that “a witness may not testify to a matter unless evidence is introduced which is sufficient to support a finding that the witness has personal knowledge of the matter.” § 90.401 Fla. Stat. (2014). Likewise, the Collateral Matter Rule states that litigation of purely collateral matters for the sole purpose of impeaching a party or witness is improper. *Dempsey v. Shell Oil Co.*, 589 So. 2d 373, 377 (Fla. 4th DCA 1991). A matter is considered collateral if it is not material and would not be admitted for any purpose other than the contradiction. *Id.* Thus, unless these witnesses have knowledge and can speak to what Epstein believed when he filed suit against Edwards, their testimony would be irrelevant and collateral. Nearly all of the witnesses listed by Edwards were involved in other cases, including the criminal case, against Epstein; cases that have no bearing on the issues in this matter. Accordingly, any information and testimony about such cases would be collateral and inadmissible.

As such, Epstein seeks to exclude testimony from the following witnesses, as any testimony to be offered by these witness would be irrelevant, misleading, confusing, and prejudicial, as they lack any knowledge regarding the issue at hand in this matter; to wit: whether or not Jeffrey Epstein had the requisite cause to file suit against Edwards for his actions taken in cases Edwards and RRA were prosecuting against Epstein when the same cases were known to have been used by Rothstein and other then unnamed partners at RRA to perpetuate, and further, RRA’s Ponzi Scheme:

1. [REDACTED]
2. [REDACTED]

3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. Detective Joseph Recarey
9. Chief Michael Reiter
10. John Connolly
11. Charles Lichtman, Esquire
12. Antonio Figueroa (Tony)
13. Records Custodian of Palm Beach Police Department
14. Records Custodian of United States Attorney's Office for the Southern District of Florida
15. Records Custodian of the Federal Bureau of Investigations
16. Spencer Kuvn, Esquire
17. Theodore Leopold, Esquire
18. Rinaldo Rizzo
19. Adam Horowitz, Esquire
20. Isidro M. Garcia, Esquire
21. All of the Lawyers who Represented Victims of Jeffrey Epstein. **This is so overbroad that Epstein cannot possibly make a determination as to whether or not he seeks to exclude anything under this blanket witness identification.**

As stated above, allegations in a different lawsuit against a defendant are not relevant and are highly prejudicial under § 90.403 of the Florida Statutes. *See Long Term Care Found., Inc. v. Martin*, 778 So. 2d 1100, 1102-03 (Fla. 5th DCA 2001). Likewise, “[i]t is inconsistent with the notions of fair trial for the state to force a defendant to resurrect a prior defense against a crime for which the defendant is not on trial.” *Jacobs v. Atl. Coast Ref., Inc.*, 165 So. 3d 714 (Fla. 4th DCA. 2015) (finding that “because the prior case was settled, none of the allegations therein were proven.”). Accordingly, because not one of these witnesses has facts or information germane to *this* litigation between Epstein and Edwards, and Edwards’s sole purpose in calling

them to testify is to illicit testimony of other allegations made against Epstein, they should be precluded from testifying.

G. Testimony or evidence that Epstein Settled Prior or Subsequent Claims, Suits, or Settlements, Including the Amounts Thereof for Plaintiffs Not Represented by Edwards.

Pursuant to § 90.408 of the *Florida Statutes*, “[n]o evidence of an offer to compromise a claim which was disputed as to validity or amount, as well as any relevant conduct or statements made in negotiations concerning a compromise, is inadmissible to prove liability or absence of liability for the claim or its value.” § 90.408 FLA. STAT. (2016). The meaning of this statute is equally clear; to wit: “[n]o evidence of settlement is admissible at trial on the issue of liability.” *Saleeby v. Rocky Elson Const., Inc.*, 3 So. 3d 1078, 1083 (Fla. 2009). “[I]t is a practical impossibility to eradicate from the jury’s minds the considerations that where there has been a payment there must have been liability.” *City of Coral Gables v. Jordan*, 186 So. 2d 60, 63 (Fla. 3d DCA 1966) (“The public policy of this state favors amicable settlement of disputes and the avoidance of litigation. This policy is implemented by excluding evidence of an offer to compromise and a release or covenant not to sue tort feors.”). While the disposition of the cases that Edwards was prosecuting against Epstein on behalf of three plaintiffs may in certain limited respects be germane to this litigation, as evidence, for example, to establish the absence of any damages of Edwards, any other settlements are not.

As seen from Edwards’s trial witness list, and his exhibit list items above, it is apparent that he intends to use as much information from other cases as possible solely 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. [REDACTED]*, *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).

CONCLUSION

For the reasons stated above, and in reliance upon the applicable law cited herein, Jeffrey Epstein respectfully requests that this Court enter an Order *in Limine* precluding Bradley J. Edwards, his counsel, and his witnesses from making any argument, statement, evidence, or comment, as well as precluding from use at trial, the items/witnesses/arguments listed above.

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 25, 2017.

/s/ Tonja Haddad Coleman
Tonja Haddad Coleman, Esq.
Florida Bar No.: 176737
Tonja Haddad, PA
5315 SE 7th Street
Suite 301
Fort Lauderdale, Florida 33301
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Attorneys for Epstein

SERVICE LIST

CASE NO. 502009CA040800XXXXMBAG

Jack Scarola, Esq.

[REDACTED]
Searcy Denney Scarola et al.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Jack Goldberger, Esq.

[REDACTED]
Atterbury, Goldberger, & Weiss, PA
250 Australian Ave. South, Suite 1400
West Palm Beach, FL 33401

Marc Nurik, Esq.

1 East Broward Blvd., Suite 700
Fort Lauderdale, FL 33301

Bradley J. Edwards, Esq.

[REDACTED]
Farmer Jaffe Weissing Edwards Fistos Lehrman
425 N Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301

Fred Haddad, Esq.

[REDACTED]
1 Financial Plaza, Suite 2612
Fort Lauderdale, FL 33301

Tonja Haddad Coleman, Esq.

[REDACTED]
Law Offices of Tonja Haddad, P.A.
315 SE 7th Street, Suite 301
Fort Lauderdale, FL 33301

W. Chester Brewer, Jr.

[REDACTED]
W. Chester Brewer, Jr., P.A.
250 S. Australian Avenue, Suite 1400
West Palm Beach, FL 33401