

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

CASE NO. 502008CA028058XXXXMB AB

E.W.,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

EPSTEIN'S MOTION TO COMPEL DEPOSITION OF EW AND FOR SANCTIONS

Defendant, JEFFREY EPSTEIN ("Epstein"), moves for an order compelling Plaintiff, E.W. ("EW"), to appear for deposition, moves for sanctions, and states:

1. EW's deposition was originally set for deposition on September 11, 2009 (Notice attached as **Exhibit A**). Epstein agreed to re-set her deposition to November 5 and 6, 2010 (Notice attached as **Exhibit B**) since her counsel, Brad Edwards, was scheduled for surgery on or around September 11, 2009.
2. The November 5 and 6, 2010 depositions were unilaterally cancelled by EW's counsel because of the implosion of the Rothstein, Rosenfeldt & Adler firm. See November 2, 2009 e-mail from Jacquie Johnson attached as **Exhibit C**.
3. On March 9, 2010, Epstein again served a Notice of Taking Video Deposition of EW to occur on April 2, 2010 (Notice attached as **Exhibit D**). On all occasions, the deposition dates were coordinated and confirmed with opposing counsel.
4. Despite assurances from her counsel on April 1, 2010 that she would be attending, EW failed to appear for her deposition on April 2, 2010 (Certificate of Non-Appearance attached as **Exhibit E**).

5. Brad Edwards, counsel for EW, explained on the record that he arranged to pick EW up for her deposition at a pre-arranged location the morning of April 2, 2010. See Exhibit D at 3-4. However, when Mr. Edwards arrived at said location EW was not there. Id.

6. Mr. Edwards attempted to contact EW "on many occasions this morning by way of cellphone, and there is no, there has been no answer on the cellphone." Id. at 4. Mr. Edwards also called a home phone number to no avail. Id.

7. Mr. Edwards apparently learned, through an unidentified "friend" of EW, that she had to attend to a health issue related to her mother. Id. at 4-5. Yet EW made no attempt to contact Mr. Edwards and advise of any health issue; instead she again ignored her deposition notice and failed to appear.

8. In addition to being a plaintiff in the instant case, EW is also an important witness in related federal companion cases, which are subject to fast approaching discovery deadlines. Specifically, the discovery cutoff in Jane Doe v. Epstein, Case No. 08-80893-CV-MARRA/JOHNSON was recently extended to April 16, 2010. See DE #473. EW is an important witness in the foregoing case as she was a close friend of Jane Doe and possesses relevant information necessary for Epstein to defend the case. The Court should therefore compel her attendance at deposition on or before April 16, 2010 (although Mr. Edwards has agreed to extend the discovery deadline and provide another date when EW "may" actually appear).

9. Because of the importance of obtaining EW's testimony in the related federal matters, Epstein also requests the Court order that if EW fails to appear for deposition on or before April 16, 2010 (or an agreed date with her attorney who is also

the attorney in the Jane Doe case referenced herein) that an order to show cause be issued and a show cause hearing set. A proposed order is attached as **Exhibit F**.

10. Moreover, EW's callous disregard for the Florida Rules of Civil Procedure has caused Epstein to incur unnecessary attorney's fees by virtue of the undersigned preparing for and attending the deposition. Epstein has also incurred unnecessary court reporter and videographer costs, totaling \$710.00 (invoices attached as composite **Exhibit G**).

11. Rule 1.380(d), Florida Rules of Civil Procedure, provides in pertinent part:

If a party ... fails (1) to appear before the officer who is to take the deposition after being served with a proper notice, ... the court in which the action is pending may take any action authorized under paragraphs (A), (B), and (C) of subdivision (b)(2) of this rule. ... Instead of any order or in addition to it, the court shall require the party failing to act to pay the reasonable expenses caused by the failure, which may include attorneys' fees....

(Emphasis added).

12. Epstein requests the Court require EW to pay Epstein's counsel's attorney's fees for attending her deposition on April 2, 2010, for preparing the instant motion and attending hearing on same, and for the costs incurred due to her failure to attend the April 2, 2010 deposition.¹ Epstein also requests an award of attorney's fees for the time it will take to again prepare for EW's deposition, which will include the review of hundreds, if not thousands, of pages of documents.

WHEREFORE, Defendant, JEFFREY EPSTEIN, requests the Court compel Plaintiff, E.W., to attend her deposition on or before April 16, 2010 (or date agreed to by

¹ If the Court grants Epstein's entitlement to attorney's fees, Epstein will supply the Court with an affidavit attesting to the fees incurred and which Epstein is claiming.

her counsel), provide for the issuance of an order to show cause in the event E.W. fails to appear on or before April 16, 2010 (or the agreed upon date), award Epstein attorney's fees and costs based on EW's failure to appear on April 2, 2010 and grant any additional relief the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by fax and U.S. Mail to the following addressees on this 8th day of April, 2010:

Brad Edwards, Esq.
Farmer, Jaffe, Weissing, Edwards, Fistos
& Lehrman, PL
424 N. Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301

— fax

Counsel for Plaintiff

Jay Howell, Esq.
Jay Howell & Associates, P.A.
644 Cesery Boulevard
Suite 250
Jacksonville, FL 32211

Phone
Fax

Co-counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

BURMAN CRITTON LUTTIER & COLEMAN, LLP
303 Banyan Boulevard, Suite 400
West Palm Beach, FL 33401

Fax

By: _____
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
David A. Yarema
Florida Bar #12492

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

L.M.,

CASE NO. 502008CA028051XXXXMB AD

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

NOTICE OF TAKING VIDEO DEPOSITION

To: See Service List below

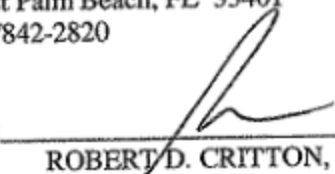
PLEASE TAKE NOTICE that the undersigned attorney will take the deposition via video of:

<u>DEPONENT</u>	<u>DATE & TIME</u>	<u>LOCATION OF DEPOSITION</u>
EW c/o Brad Edwards, Esq. Rothstein Rosenfeldt Adler 401 East Las Olas Boulevard Suite 1650 Fort Lauderdale, FL 33301	Friday September 11, 2009 10:00 a.m.	Burman Critton Luttier & Coleman, LLC 303 Banyan Boulevard Suite 400 West Palm Beach, FL 33401

upon oral examination, before Prose Court Reporting Agency, Inc., a Notary Public, or any other officer authorized by law to take depositions in the State of Florida. The oral examination is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the applicable Statutes of Rules of Court.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic mail (e-mail) and U.S. Mail to the addresses listed on the below Service List this 19th day of August, 2009.

BURMAN, CRITTON, LUTTIER & COLEMAN
303 Banyan Blvd., Suite 400
West Palm Beach, FL 33401
561/842-2820

BY: 

ROBERT D. CRITTON, JR., ESQ.
Florida Bar No. 224162
MICHAEL J. PIKE, ESQ.
Florida Bar No. 617296

(Counsel for Defendant Jeffrey Epstein)

Courtesy copy: Prose Court Reporting Agency, Inc.

EXHIBIT A

EFTA01103289

L.M. v. Epstein
Service List

Brad Edwards, Esq.
Rothstein Rosenfeldt Adler
401 East Las Olas Boulevard
Suite 1650
Fort Lauderdale, FL 33301
Phone: [REDACTED]
Fax: [REDACTED]
Counsel for Plaintiff

Jay Howell, Esq.
Jay Howell & Associates, P.A.
644 Cesery Boulevard
Suite 250
Jacksonville, FL 32211
[REDACTED] Phone
[REDACTED] Fax
Co-counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

10/20

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

E.W.,

CASE NO. 502008CA028058XXXXMB AD

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

NOTICE OF TAKING VIDEO DEPOSITION

To: See Service List below

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition via video of:

<u>DEPONENT</u>	<u>DATE & TIME</u>	<u>LOCATION OF DEPOSITION</u>
E.W. c/o Brad Edwards, Esq. Rothstein Rosenfeldt Adler 401 East Las Olas Boulevard Suite 1650 Fort Lauderdale, FL 33301	Thursday, November 5, 2009 and Friday, November 6, 2009 beginning at 10:00 a.m.	Prose Court Reporting 250 Australian Avenue S., Suite #1500 West Palm Beach, FL 33401

upon oral examination, before Prose Court Reporting Agency, Inc., a Notary Public, or any other officer authorized by law to take depositions in the State of Florida. The oral examination is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the applicable Statutes of Rules of Court.

I HEREBY CERTIFY that a true copy of the foregoing was sent by electronic mail (e-mail) and by US Mail to the addresses listed on the below Service List on this 20th day of October, 2009.

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
303 Banyan Blvd., Suite 400
West Palm Beach, FL 33401

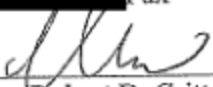
[Redacted] Fax
By: 
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
(Counsel for Defendant Jeffrey Epstein)

EXHIBIT B

E.W. v. Epstein

Service List

Brad Edwards, Esq.
Brad Edwards and Associates, LLC
2028 Harrison Street
Suite 202
Hollywood, FL 33020
[REDACTED] Phone
[REDACTED] Fax
Counsel for Plaintiff

Jay Howell, Esq.
Jay Howell & Associates, P.A.
644 Cesery Boulevard
Suite 250
Jacksonville, FL 32211
[REDACTED] Phone
[REDACTED] Fax
Co-counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

Jessica Cadwell

From: Jacquie Johnson [REDACTED]
Sent: Monday, November 02, 2009 12:14 PM
To: Jessica Cadwell; Connie Zaguirre
Subject: Deposition of EW

**Due to certain circumstances at
RRA – we have no choic
But to cancel the deposition
of EW this week.**

Jacquie Johnson
Legal Assistant to
Brad Edwards, Esq.
Partner
Rothstein Rosenfeldt Adler
401 East Las Olas Blvd.
Suite 1650
Fort Lauderdale, FL 33301
Telephone [REDACTED]
Fax [REDACTED]
[REDACTED]

EXHIBIT C

4/8/2010

EFTA01103293

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

E.W.,

CASE NO. 502008CA028058XXXXMB AD

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

NOTICE OF TAKING VIDEO DEPOSITION

To: See Service List below

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition via video of:

DEPONENT

DATE & TIME

LOCATION OF DEPOSITION

E.W.
c/o Brad Edwards, Esq.
Farmer, Jaffe, Weissing, Edwards,
Fistos & Lehrman, P.L.
425 N. Andrews Avenue
Suite #2
Fort Lauderdale, FL 33301

April 2, 2010 at
9:00 a.m.

Prose Court Reporting
250 Australian Avenue S.
Suite #1500
West Palm Beach, FL 33401

upon oral examination, before Prose Court Reporting Agency, Inc., a Notary Public, or any other officer authorized by law to take depositions in the State of Florida. The oral examination is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the applicable Statutes of Rules of Court.

I HEREBY CERTIFY that a true copy of the foregoing was sent by electronic mail (e-mail) and by US Mail to the addresses listed on the below Service List on this 9th day of March, 2010.

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
303 Banyan Blvd., Suite 400
West Palm Beach, FL 33401

Fax

By: _____

Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
(Counsel for Defendant Jeffrey Epstein)

EXHIBIT D

EFTA01103294

E.W. v. Epstein

Service List

Brad Edwards, Esq.
Farmer, Jaffe, Weissing, Edwards, Fistos &
Lehrman, P.L.
425 N. Andrews Avenue
Suite 2
Ft. Lauderdale, FL
[REDACTED] Phone
[REDACTED] Fax
Counsel for Plaintiff

Jay Howell, Esq.
Jay Howell & Associates, P.A.
644 Cesery Boulevard
Suite 250
Jacksonville, FL 32211
[REDACTED] Phone
[REDACTED] Fax
Co-counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 502008CA028058XXXXMB AD

E.W.,

Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.

VIDEO-CONFERENCED VIDEOTAPED DEPOSITION OF
E.W.

Friday, April 2, 2010
9:20 - 9:22 a.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No. 1612

PROCEEDINGS

MR. CRITTON: All right. We're here for the deposition of E.W. which was duly noticed today for 9:00. We confirmed with Mr. Edward's office yesterday that the deposition was on. He reconfirmed they would be here at 9:00 for the deposition.

He sent me some -- we had made a request for his Answers to Interrogatories which were due yesterday. They provided me their answers and objections to I think it was the fourth set of interrogatories. And I have been preparing for nine years -- no, certainly for a couple of days, but Mr. Edwards has just advised me she probably, Ms. E.W. will probably not be here today, but I will let him speak for himself.

MR. EDWARDS: Sure. Just so the record is clear, I have had frequent and constant communication with E.W. over the last month. As recently as Wednesday she was in my office for the pre-deposition conference, met for several hours, was certainly intending on being here, communications with E.W. as late as 8:00 last night where we made arrangements for her

APPEARANCES:

On behalf of the Plaintiffs, L.M., E.W. and
Jane Doe:

BRADLEY J. EDWARDS, ESQUIRE
FARMER, JAFFE, WEISSING, EDWARDS
FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue
Suite 2
Fort Lauderdale, Florida 33301
Phone: 954.524.2820

On behalf of the Defendant, Jeffrey Epstein:
ROBERT D. CRITTON, JR., ESQUIRE
BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
303 Banyan Boulevard
Suite 400
West Palm Beach, Florida 33401
Phone: 561.842.2820

ALSO PRESENT
Sascha Quimby, Videographer

to be at this deposition which included me picking her up this morning.

I showed up to the location and she was not, she was not there. The information that has been relayed to me in the last hour is that there was a health issue related to her mother last night that she had to attend to.

I have attempted to contact E.W. on many occasions this morning by way of cellphone, and there is no, there has been no answer on the cellphone. And I have also made attempts to contact at another home phone where she has stayed recently, and there was no answer at that phone as well.

So, at this point in time all indications are that she will not be here for her deposition today.

MR. CRITTON: Just for clarification, Brad, did you actually speak with someone? I mean, I know you spoke with E.W. last night. She was going to come. And then have you, I thought you said you spoke with someone to try to locate her.

Do you want to disclose who that person is?

EXHIBIT E

1 (Pages 1 to 4)

MR. EDWARDS: Not at this time I don't. If the court wants me to disclose, I will, but it is a friend of E.W.'s who spoke with her later last night than the time when I spoke to her.

MR. CRITTON: Okay. Did you get any inclination at that time that there was any problem with family or friends?

MR. EDWARDS: At the time that I spoke with E.W.?

MR. CRITTON: No, with the other person.

MR. EDWARDS: That conversation happened within the last hour this morning.

MR. CRITTON: Okay. All right. We'll take a C.N.A., and I actually have been preparing for this for a couple of days.

E.W. has a lot of information on her. She is obviously a key witness. She is an important witness in a number of cases including the Jane Doe case which discovery ends on the 16th and Mr. Edwards and I have worked out some extensions on that. We may have to work out some others to our mutual benefit so we can complete the deposition or attempt to take Ms. E.W.'s deposition.

CERTIFICATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, Cynthia Hopkins, Registered Professional Reporter and Florida Professional Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 2nd day of April, 2010.

Cynthia J. Hopkins
Cynthia Hopkins, RPR



Job #1612

So, we'll take a C.N.A. and I will do what I need to do in court. Thank you.

MR. EDWARDS: Agreed.
(The deposition was concluded.)

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 502008CA028058XXXXMB AD

E.W.,

Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.

CERTIFICATE OF NON-APPEARANCE

I, Cynthia Hopkins, Registered Professional
Reporter and Notary Public, State of Florida at
Large, was duly designated to take the deposition of
the witness:

E.W.

I hereby certify that aforesaid witness did
not appear before me between 9:00 a.m. and 9:30 a.m.
on the 2nd day of April, 2010. Present was
Robert D. Critton, Jr., Esquire, and Bradley J.
Edwards, Esquire.

Dated this 2nd day of April, 2010.

Cynthia J. Hopkins
Cynthia J. Hopkins, RPR



Prose Court Reporting Agency, Inc.
West Palm Beach, Florida

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

E.W.,

CASE NO. 502008CA028058XXXMB AB

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

**ORDER ON EPSTEIN'S MOTION TO COMPEL
DEPOSITION OF EW AND FOR SANCTIONS**

THIS CAUSE came before the Court on Defendant Epstein's Motion to Compel Deposition of EW and for Sanctions, and the Court having heard argument of counsel and being fully advised in these premises, it is hereby

ORDERED and ADJUDGED that Defendant's Motion is GRANTED.

(1) EW shall appear for deposition on or before _____.

(2) If EW fails to appear for deposition on or before _____, she is commanded to appear before the undersigned on _____, 2010 at _____ a.m./p.m to show cause why she should not be held in contempt of court for failing to appear for deposition.

(3) Epstein is entitled to recover from EW \$710.00 in costs for her failure to appear at her properly noticed deposition on April 2, 2010.

(4) Epstein is entitled to recover attorney's fees from EW due to her failure to attend her properly noticed deposition on April 2, 2010 (amount to be determined at a future hearing).

DONE AND ORDERED at Palm Beach County Courthouse, West Palm Beach, Florida,
this _____ day of _____, 2010.

Donald Hafele
Circuit Court Judge

Copies furnished:
ROBERT D. CRITTON, JR., ESQ., and MICHAEL J. PIKE, ESQ., 303 Banyan Boulevard, Suite 400, West Palm Beach, FL 33401,
BRADLEY J. EDWARDS, ESQ., Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, PL, 425 N. Andrews Avenue, Suite 2, Fort
Lauderdale, FL 33301, JAY HOWELL, ESQ., Jay Howell & Associates, P.A., 644 Cesery Boulevard, Suite 250, Jacksonville, FL
32211, and JACK A. GOLDBERGER, ESQ., Atterbury Goldberger & Weiss, P.A., 250 Australian Avenue South, Suite 1400, West
Palm Beach, FL 33401-5012.

EXHIBIT F



Robert Critton, Esquire
Burman, Critton, Luttier & Coleman, LLP
303 Banyan Boulevard, Suite 400
West Palm Beach, FL 33401

INVOICE

Invoice No.	Invoice Date	Job No.
5549	4/3/2010	1612
Job Date	Case No.	
4/2/2010	502008CA028058XXXXMB AF	
Case Name		
E.W. v Epstein		
Payment Terms		
Due upon receipt		

Scheduled Deposition of E.W.

Certification of Non-Appearance

Large Conference Room - 1 Hour

110.00	110.00
75.00	75.00

TOTAL DUE >>>

\$185.00

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Robert Critton, Esquire
Burman, Critton, Luttier & Coleman, LLP
303 Banyan Boulevard, Suite 400
West Palm Beach, FL 33401

Job No. : 1612 BU ID : 1-MAIN
Case No. : 502008CA028058XXXXMB AF
Case Name : E.W. v Epstein

Invoice No. : 5549 Invoice Date : 4/3/2010
Total Due : \$185.00

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250 S. Australian Ave., Suite 1500
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Amount to Charge: _____
Cardholder's Signature: _____

EFTA01103300



P.O. Box 6967 West Palm Beach, FL 33405

Invoice

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4/2/2010	29683
Terms	
Due on receipt	

BURMAN, CRITTON & LUTTIER
ROBERT CRITTON
303 BANYAN BLVD
SUITE 400
WEST PALM BEACH, FL 33401

Case / Reference:		E.W. vs EPSTEIN	
Date	Services Rendered	Qty	Amount
4/2/2010	VIDEOTAPED DEPOSITION OF: E.W. DEPO CANCELLED DUE TO NO-SHOW BY DEPONENT Tech Time - 1ST 2 Hours Portable Videoconferencing System - 1/2 day Discount PER M.D.	1 1 1	275.00 500.00 -250.00

*Adapting our services to meet your presentation needs.
Visit: www.visualevidence.com*

TOTAL: \$525.00

Remit to:
P.O. Box 6967
West Palm Beach, FL 33405
Tax ID # [REDACTED]

Phone: (561) 655-2855 Fax: (561) 655-2896 office@visualevidence.org

EFTA01103301