

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

JEFFREY EPSTEIN

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

Plaintiff,  
v.

Case No. 50 2009CA040800XXXXMB AG

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

Defendants.

ANSWER TO COUNTERCLAIM

Plaintiff, JEFFREY EPSTEIN, (hereinafter "EPSTEIN"), by and through his undersigned attorneys, files this his answer to the Counterclaim and states:

1. Without knowledge and deny.
2. Admit.
3. Deny.
4. Epstein admits that he is a convicted felon having entered into a Plea Agreement

with the State of Florida. As to the remaining allegations in paragraph 4, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* ("...court must treat the defendant's

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claim of privilege as equivalent to a specific denial.”). See also 24 Fla.Jur.2d Evidence §592.

*Defendants in civil actions.* – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

5. Epstein admits he has been sued civilly by a number of individuals, and admits that a number of cases have been settled and other cases remain pending. As to the remaining allegations of paragraph 5, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment’s Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - “[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* (“...court must treat the defendant’s claim of privilege as equivalent to a specific denial.”). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

6. Epstein admits that he has asserted his 5<sup>th</sup> Amendment right against self-incrimination as well as other constitutional rights. As to the remaining allegations of paragraph

6, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - “[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* (“...court must treat the defendant’s claim of privilege as equivalent to a specific denial.”). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

7. Epstein admits that Edwards has clients prosecuting claims against him. As to the remaining allegations in paragraph 7, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - “[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* (“...court must treat the defendant’s claim of privilege as equivalent to a specific

denial.”). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

8. Epstein denies that Edwards has not engaged in any unethical, illegal, or improper conduct and further denies that Edwards has not taken action inconsistent with the representation of his clients. As to the remaining allegations in paragraph 8, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment’s Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - “[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* (“...court must treat the defendant’s claim of privilege as equivalent to a specific denial.”). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

9. Epstein denies that he had filed this cause of action to intimidate anyone into abandoning and/or settling any claims that have been made against Epstein. As to the remaining

allegations in paragraph 9, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* – "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

10. The complaint is the best evidence of the allegations asserted by the Plaintiff, Epstein, and Epstein denies the remaining allegations of paragraph 10.

11. Epstein denies any ulterior motive, purpose or any illegal, improper or perverted use of process, and further denies the allegation regarding his "real purpose" relative to Edwards and L.M. As to the remaining allegations in paragraph 11, Epstein asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4<sup>th</sup> DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a

claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court.”); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny – Privilege Against Self-Incrimination* (“...court must treat the defendant’s claim of privilege as equivalent to a specific denial.”). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions.* – “... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief” which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

12. Deny.

#### **AFFIRMATIVE DEFENSES**

1. First Affirmative Defense – Edwards fails to state a cause of action for abuse of process. Edwards has failed to allege any misuse of process after the instant lawsuit was filed and served. Accordingly, Edwards has failed to state a cause of action for abuse of process and his Counterclaim must therefore be dismissed.

2. Second Affirmative Defense – To the extent Edwards claims Epstein’s lawsuit/acts are tortious in nature, the litigation privilege is an absolute immunity that covers both defamatory statements and other tortuous behavior during a judicial proceeding.

**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 15<sup>th</sup> day of March, 2010:

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