

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

CASE NO.: 502009CA040800 AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

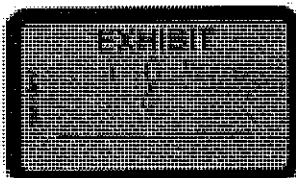
SCOTT ROTHSTEIN, etc., et al.,

Defendant(s).

ORDER ON DEFENDANT EDWARDS'
MOTION FOR SUMMARY JUDGMENT

THIS CAUSE came before the Court upon the Defendant, BRADLEY J. EDWARDS' Motion for Summary Judgment in regard to the claims brought by the Plaintiff, JEFFREY EPSTEIN. The Court, after carefully considering the arguments of the attorneys, after examining all pertinent pleadings, affidavits and other matters of record in regard to the Motion makes the following findings and legal rulings.

Upon Motion for Summary Judgment, the movant has the burden of conclusively demonstrating the non-existence of any genuine issue of material fact. *Holl v. Talcott*, 191 So.2d 40, 43 (Fla. 1966). The burden of demonstrating the existence of genuine issues does not shift to the opposing party until the movant has successfully met its burden. *Sasson v. Rockwell Mfg. Co.*, 715 So.2d 1066 (Fla. 3rd DCA 1998). When considering a Motion for Summary Judgment, it is settled that a trial court is not permitted to weigh material conflicting evidence or pass upon the credibility of the witnesses. *Id.* at 1067. Further, the Court must draw every possible inference in favor of the party against whom a Summary Judgment is sought. *Gonzalez v. B & B Cash Grocery Stores*, 692 So.2d 297 (Fla. 4th DCA 1997). If the record raises *even the slightest doubt that*



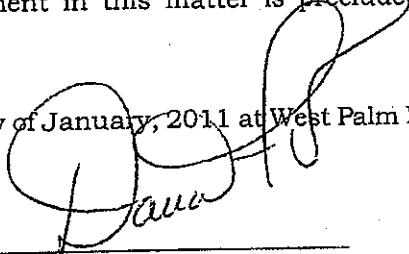
Epstein v. Rothstein, et al.
Case No. 502009CA040800 AG
Order
Page 2

an issue might exist, Summary Judgment is precluded. *Fatherly v. California Federal Bank, FSBO*, 703 So.2d 1101 (Fla. 2nd DCA 1997). It hardly needs to be repeated that Summary Judgment cannot be granted if there is the slightest doubt about the presence of any issue of fact. See e.g., *Fleet Finance & Mortgage, Inc. v. Carey*, 707 So.2d 949 (Fla. 4th DCA 1998).

Moreover, it is also axiomatic that Summary Judgment is premature prior to the facts being crystallized and discovery being completed. Based upon the record evidence, this Court's prior Orders, as well as records of which this Court has taken judicial notice, Summary Judgment is premature at this point. Through no fault of his own, the Plaintiff has not been able to obtain records which clearly are calculated to lead to admissible evidence in this case. While the Defendant contends that those records do not and will never show any evidence to support the Plaintiff's claim, it would be manifestly unfair and error for this Court to rule upon the Motion prior to the Plaintiff having an opportunity to have access to those records. Moreover, there are numerous pending issues in regard to work product, privilege, both as to the Plaintiff and the Defendant, and to the records which are now in the custody of the trustee in bankruptcy.

Therefore, after careful consideration and examination of the record, and given the aforesaid authority, Summary Judgment in this matter is precluded and, therefore, the Motion is denied at this time.

DONE AND ORDERED this 11th day of January, 2011 at West Palm Beach,
Palm Beach County, Florida.



DAVID F. CROW
CIRCUIT COURT JUDGE