BOIES SCHILLER FLEXNER

January 5, 2024

VIA ECF

The Honorable Loretta A. Preska
District Court Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: ***Giuffre v. Maxwell*, Case No. 15-cv-7433-LAP**

Dear Judge Preska,

Pursuant to the Court's December 18, 2023, unsealing order, and following conferral with Defendant, Plaintiff files this set of documents ordered unsealed. The filing of these documents ordered unsealed will be done on a rolling basis until completed. This filing also excludes documents pertaining to Does 105 (*see* December 28, 2023, Email Correspondence with Chambers), 107, and 110 (*see* ECF No. 1319), while the Court's review of those documents is ongoing.

Respectfully,

/s/ Sigrid S. McCawley
Sigrid S. McCawley

cc: Counsel of Record (via ECF)

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

DECLARATION OF PAUL G. CASSELL IN SUPPORT OF PLAINTIFF'S OPPOSITION TO PROPOSED INTERVENOR ALAN M. DERSHWOITZ'S MOTION FOR PERMISSIVE INTERVENTION

I, Paul G. Cassell, declare that the below is true and correct to the best of my knowledge as follows:

BACKGROUND

1. I am a licensed attorney in the state of Utah. I am authorized to practice before this Court pursuant to this Court's Order granting my Application to Appear Pro Hac Vice.

2. I respectfully submit this Declaration in opposition to Proposed Intervenor Alan M. Dershowitz's Motion for Permissive Intervention and Unseal of Judicial Documents, or in the Alternative Modification of the Protective Order.

3. I am the Ronald N. Boyce Presidential Professor of Criminal Law and University Distinguished Professor of Law at the S.J. Quinney College of Law, where I teach criminal procedure, criminal, and crime victims' rights.

THE FLORIDA CRIME VICTIMS RIGHTS ACT CASE

4. Since July 2008, I have been involved in important and precedent-setting crime victims' rights litigation in the Southern District of Florida trying to protect the rights of various victims under the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771. Along with Florida co-counsel Bradley J. Edwards, I have been pursuing a federal case pro bono on behalf of two young women who were sexually abused as underage girls by Dershowitz's close personal friend – Jeffrey Epstein.

5. On July 7, 2008, Mr. Edwards filed an emergency petition to enforce the rights of "Jane Doe No. 1" and "Jane Doe No. 2" under the CVRA, 18 U.S.C. § 3771, alleging that the Government had failed to provide them rights with regard to a plea arrangement it was pursuing with Epstein. DE 1,[1] Jane Doe No. 1 and Jane Doe No. 2 v. United States, No. 9:08-cv-80736 (S.D. Fla.). As the case developed, it became clear that the U.S. Attorney's Office for the Southern District of Florida had concealed from Epstein's victims a non-prosecution agreement (NPA) that they had reached with Epstein.

6. During the litigation, Mr. Edwards and I have won several important victories for our clients, including a ruling that the CVRA can apply to protect crime victims' rights even before an indictment is filed. *See* Paul G. Cassell, Nathanael J. Mitchell & Bradley J. Edwards, *Crime Victims' Rights During Criminal Investigations? Apply the Crime Victims' Rights Act Before Criminal Charges are Filed,* 104 J. CRIM. L. & CRIMINOLOGY 58, 67-69 (2014) (describing litigation concerning Epstein).

7. In the course of that case, on October 11, 2011, the victims filed discovery requests with the Government, including requests specifically seeking information about

[1] In this section of the Declaration, all references to docket entries will be to CVRA case in the Southern District of Florida, No. 9:08-cv-80736.

Dershowitz, Prince Andrew, and others. Further efforts from the Government to avoid producing any discovery followed (*see* generally DE 225-1 at 4-5),[2] ultimately leading to a further Court ruling in June 2013 that the Government should produce documents. DE 189. The Government then produced about 1,500 pages of largely irrelevant materials to the victims (DE 225-1 at 5), while simultaneously submitting 14,825 pages of relevant materials under seal to the Court. The Government claimed that these pages were "privileged" for various reasons, attaching an abbreviated privilege log.

8. While these discovery issues were pending, in the summer of 2014, Mr. Edwards and I contacted Government counsel to request their agreement to add two additional victims to the case, including Ms. Virginia Giuffre (who was identified in court pleadings as "Jane Doe No. 3"). Edwards and I sought to have her added to the case via stipulation, which would have avoided the need to include any detailed facts about her abuse. Weeks went by and the Government – as it had done on a similar request for a stipulation to add another victim – did not respond to counsel's request for a stipulation.

9. Finally, on December 10, 2014, despite having had four months to provide a position, the Government responded by email to counsel that it was seeking more time, indicating that the Government understood that victims' counsel might need to file a motion with the court on the matter immediately. DE 291 at 3-5. Rather than file a motion immediately, victims' counsel waited and continued to press the Government for a stipulation. *See id.* at 5. Finally, on December 23, 2014 – more than four months after the initial request for a stipulated joinder into the case – the Government tersely indicated its objection, without indicating any

[2] Jeffrey Epstein also attempted to block discovery of materials, leading to an Eleventh Circuit ruling that the victims' discovery efforts were proper. *Doe v. Epstein*, 749 F.3d 999 (11th Cir. 2014).

reason: "Our position is that we oppose adding new petitioners at this stage of the litigation." See DE 291 at 5.

10. Because the Government now contested the joinder motion, Edwards and I prepared a more detailed pleading explaining the justification for granting the motion. One week after receiving the Government's objection, on December 30, 2014, Ms. Giuffre (i.e., Jane Doe No. 3) and Jane Doe No. 4 filed a motion (and later a corrected motion) seeking to join the case. DE 279 and DE 280. Uncertain as to the basis for the Government's objection, the motion briefly proffered the circumstances that would qualify the two women as "victims" eligible to assert rights under the CVRA. *See* 18 U.S.C. 3771(e) (defining "crime victim" protected under the Act). With regard to Ms. Giuffre, the motion indicated that when she was a minor, Jeffrey Epstein had trafficked her to Dershowitz and Prince Andrew (among others) for sexual purposes. Jane Doe No. 3 stated that she was prepared to prove her proffer. *See* DE 280 at 3 ("If allowed to join this action, Jane Doe No. 3 would prove the following . . . . "). The motion also provided specific reasons why Jane Doe No. 3's participation was relevant to the case, including the pending discovery issues regarding Dershowitz and Prince Andrew. DE 280 at 9-10 (explaining several reasons participation of new victims was relevant to existing issues).

11. After the motion was filed, various news organizations published articles about it. Dershowitz also made numerous media statements about the filing, including calling Jane Doe No. 3 "a serial liar" who "has lied through her teeth about many world leaders." http://www.cnn.com/2015/01/06/us/dershowitz-sex-allegation/. Dershowitz also repeatedly called Edwards and me "two sleazy, unprofessional, disbarable lawyers." *Id.* He made many similar remarks of an equivalent character, and also stated in media appearance that if we had

done one hour of work investigating Ms. Giuffre's allegations of sexual abuse against him, we would have immediately seen that those allegations were false.

12. On January 5, 2015, Dershowitz filed a motion to intervene to argue to have the allegations stricken. DE 282. Dershowitz also argued that Ms. Giuffre had not provided a sworn affidavit attesting to the truth of her allegations.

13. On January 21, 2015, Edwards and I filed a response for our clients, Ms. Giuffre and Jane Doe No. 4. DE 291. The response enumerated nine specific reasons why Ms. Giuffre's specific allegations against Dershowitz were relevant to the case, including the fact that Ms. Giuffre needed to establish that she was a "victim" in the case, that pending discovery requests concerning Dershowitz-specific documents were pending, and that Dershowitz's role as a defense attorney in the case was highly relevant to the motive for the Government and defense counsel to conceal the plea deal from the victims. DE 291 at 17-26 & n.17. The response included a detailed affidavit from Ms. Giuffre about the sexual abuse she had suffered from Epstein, Dershowitz, and other powerful persons. DE 291-1.

14. On February 6, 2015, Edwards and Cassell filed a further pleading (and affidavit from Ms. Giuffre, *see* DE 291-1) in support of her motion to intervene.

15. On April 7, 2015, Judge Marra denied Ms. Giuffre's motion to join the case. Judge Marra concluded that "at this juncture in the proceedings" details about the sexual abuse she had suffered was unnecessary to making a determination "of whether Jane Doe 3 and Jane Doe 4 should be permitted to join [the other victims'] claim that *the Government* violated their rights under the CVRA. The factual details regarding with whom and where the Jane Does engaged in sexual activities are impertinent to this central claim (i.e., that they were known victims of Mr. Epstein and the Government owed them CVRA duties), especially considering

that the details involve non-parties who are not related to the respondent Government." DE 324 at 5 (emphasis in original). While Judge Marra struck those allegations, he emphasized that "Jane Doe 3 is free to reassert these factual details through proper evidentiary proof, should [the victims] demonstrate a good faith basis for believing that such details are pertinent to a matter presented for the Court's consideration. Judge Marra then denied Ms. Giuffre's motion to join the case, but allowed her to participate as trial witness: "The necessary 'participation' of [Ms. Giuffre] . . . in this case can be satisfied by offering . . . properly supported – and relevant, admissible, and non-cumulative – testimony as needed, whether through testimony at trial . . . or affidavits supported in support [of] the relevancy of discovery requests." DE 324 at 8 (emphasis deleted).

16. In a later supplemental order, Judge Marra stated that the victims "may re-refile these documents omitting the stricken portions." DE 325. The victims have since refiled these documents.

17. The CVRA case continues to be litigated, and the victims filed a comprehensive motion for summary judgment earlier this year. *See* DE 361 (filed Feb. 10, 2016; government response not yet filed).

THE FLORIDA DEFAMATION CASE

18. In about early January 2015, following the filing of Ms. Giuffre's motion to join the CVRA case, Dershowitz launched a media attack not only on Ms. Giuffre but also on Mr. Edwards and me. Dershowitz repeatedly and publicly attacked the two of us, saying such things as "if these lawyers, these sleazy unprofessional, unethical lawyers, Paul Cassell and Brad Edwards, if they had just done an hours' worth of research and work, they would have seen she is lying through her teeth."

http://www.cnn.com/videos/world/2015/01/05/wrn-uk-sex-abuse-allegations-alan-dershowitz-intv.cnn.

19. Rather than try these questions in the media, Mr. Edwards and I filed a defamation action in Florida against Dershowitz. We were represented by well-known Florida attorney Jack Scarola.

20. During the course of the defamation action, I explained the significant work – far in excess of one hour – that Mr. Edwards and I had done to investigate Ms. Giuffre's sworn allegations that Dershowitz had repeatedly sexually abused her. I explained that work at length in my deposition in the case. Attached hereto as Sealed Exhibit 1 is a true and correct copy of the first day of my deposition testimony in the case. Pages 61-117 explain some of the work that Mr. Edwards and I did to corroborate Ms. Giuffre's allegations before filing them in the CVRA case.

21. My deposition testimony includes the following information that Mr. Edwards and I relied upon in believing the truth of Giuffre's allegations:

a. The Palm Beach Police Department put together an 87-page report based on witness interviews and other evidence documenting sexual abuse of dozens of minor girls occurring in Epstein's Florida mansion – a location where Ms. Giuffre said Dershowitz had abused her;

b. The Palm Beach police report showed the sexual abuse was occurring on a daily basis and, indeed, in some cases as much as two or three times in one day in circumstances that would have made it obvious to a visiting guest that young girls were coming to the home for sexual purposes;

c. Flight logs for Epstein's private jet showed that Epstein (accompanied by Ms. Maxwell) flew Ms. Giuffre to the New York City area, a location where Ms. Giuffre said Dershowitz had abused her;

d. Epstein's flight logs appeared to be disguising the identity of all of the passengers on Epstein's plane by using such notations as "one female."

e. A very well-regarded Florida lawyer (Bob Josefsberg), who was selected by the U.S. Government to represent the victims of Epstein's sexual abuse, had found Ms. Giuffre to be credible and in 2009 filed a civil complaint for her alleging not only sex abuse by Epstein but also by "academicians" -- a group into which Dershowitz fell;

f. Shortly after Josefsberg filed the complaint for Ms. Giuffre alleging "academicians" had abuse her, one of Josefsberg's partners, Ms. Ezell, began conducting depositions in Epstein-related cases asking about Dershowitz's awareness of sexual abuse;

g. Dershowitz showed up on flight logs for Epstein's private jet, including a flight with an (apparently young) woman named "Tatiana" who did not appear to serve any business purpose for Epstein;

h. When asked about Dershowitz, Epstein took the Fifth rather than indicate that Dershowitz was not involved in any criminal activities – a fact from which an obvious adverse inference could be drawn that Dershowitz was, indeed, involved in Epstein's crimes;

i. In moving down from the top of Epstein's criminal conspiracy to the next echelon, three women – Sarah Kellen, Adrianna Mucinska, and Nadia Marcinkova – *all* took the Fifth when asked about Dershowitz's awareness of Epstein's sexual abuse of underage girls or whether Dershowitz was involved in massages with young girls;

j. Kellen, Mucinska, and Marcinkova were all covered by a highly unusual non-prosecution agreement (negotiated by, among others, Epstein defense attorney Alan Dershowitz) that provided immunity from prosecution for sex trafficking not only to Epstein but also to his "potential co-conspirators";

k. One of Epstein's household employees, Juan Alessi, said that Dershowitz visited Epstein's Palm Beach mansion four or five times a year, staying two or three days when he went there – and Alessi was able to identify a photograph of Ms. Giuffre as someone who was at the mansion as the same time as Dershowitz;

l. Another Epstein household employee, Alfredo Rodriguez, said that during the time of his employment (2005), Dershowitz visited Epstein's mansion at the same time as "massages" by underage girls were occurring in the mansion;

m. When Rodriguez was arrested by the FBI trying to sell Epstein's "little black book" of contacts and phone numbers, he appeared to have circled the name of Alan Dershowitz as someone who had information about Epstein criminal activities;

n. Dershowitz had indicated in 2003 that he was an extremely close friend of Epstein – indeed, that the only person outside his immediately family with whom he shared drafts of his books was Epstein;

o. Attempts had been made to depose Dershowitz or otherwise obtain information from him about his knowledge of Epstein's sexual abuse in 2009, 2011, 2013, and January 2015, and he had avoided all those efforts;

p. Dershowitz had told the Palm Beach Police Department that he was going to make Epstein available to answer questions about sex abuse of underage girls, but then repeatedly rescheduled those meetings, ultimately never producing Epstein – a pattern of deception that appeared to be designed to deliberately delay the investigation;

q. Dershowitz's pattern of avoiding depositions (and helping Epstein avoid questioning) was consistent with a pattern of other persons who were involved in Epstein's international sex trafficking organization evading efforts to obtain information from them;

r. Ms. Giuffre had alleged abuse by other powerful friends of Epstein, including Prince Andrew, and there was a photograph showing Prince Andrew with his arm around Ms. Giuffre apparently taken in London (where she said the sex abuse had taken place).

Sealed Exhibit 1, Depo. of Paul Cassell (Oct. 16 & 17, 2015), at 61-117.

22. Ms. Giuffre was not a party to the litigation between Dershowitz, Mr. Edwards, and me.

23. During the course of the litigation, however, Dershowitz sought to obtain discovery from Ms. Giuffre. In particular, Dershowitz sought to obtain from Ms. Giuffre (a non-party to the action) all of her emails with the media. The Court denied his discovery request. Attached hereto as Sealed Exhibit 2 is a true and correct copy of the court's order denying that discovery.

24. Dershowitz produced many documents in the course of discovery in that case – and, ironically, he placed many document under a protective order in Florida. Attached hereto as

Sealed Exhibit 3 is a true and correct copy of the court's protective order, which Dershowitz used to keep documents under seal.

25. On January 16, 2016, Dershowitz took Ms. Giuffre's deposition. As noted earlier, Ms. Giuffre recounted in detail repeated acts of sexual abuse by Dershowitz. *See* McCawley Dec., Ex. 4 at 88-91.

26. Ultimately, Dershowitz settled the defamation case. That settlement included both a public statement and confidential monetary payments. As part of the settlement, Edwards and I withdrew our allegations against Dershowitz in the defamation case contained in the then-pending summary judgment motion and Dershowitz withdrew his allegations of unethical conduct, as reflected in the Notice of Withdrawal of Motion for Partial Summary Judgment attached hereto as Sealed Exhibit 4.

27. As Mr. Edwards and I explained in the notice of withdrawal of this motion, "the withdrawal of the referenced filings is not intended to be, and should not be construed as being, an acknowledgement by Edwards and Cassell that the allegation made by Ms. Giuffre were mistaken. Edwards and Cassell do acknowledge that the public filing in the Crime Victims' Rights Act case of their client's allegation against Defendant Dershowitz became a major distraction from the merits of the well-founded Crime Victims' Rights Act by causing delay and, as a consequence, turned out to be a tactical mistake." *Id.*

28. Contrary to representations made by Dershowitz in his brief (DEC ¶24 at pg. 5), in settling our personal defamation case against Dershowitz, Edwards and I have *never* reached any conclusion that Ms. Giuffre – our client -- was mistaken in her allegations that Dershowitz sexually abused her.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Paul G. Cassell
Paul G. Cassell, Esq.

Dated: August 29, 2016.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Meredith Schultz

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[3] This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah for this private representation.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 29, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

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/s/ Meredith Schultz
Meredith Schultz

EXHIBIT A

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

PLAINTIFF'S RESPONSE AND OBJECTIONS TO DEFENDANT'S FIRST SET OF DISCOVERY REQUESTS TO PLAINTIFF

Plaintiff hereby serves her responses and objections to Defendant's First Set of Discovery Requests.

GENERAL OBJECTIONS

Defendant's First Set of Discovery Requests violates Local Civil Rule 33.3. Defendant has served interrogatories that are in direct violation of that Rule because the interrogatories are not "restricted to those seeking names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature." Local Civil Rule 33.3(a). Instead, they seek information under subsections (b) and (c) of Local Civil Rule 33.3, and therefore, they should not be served because they are not "a more practical method of obtaining the information sought than a request for production or a deposition," and because they were served in advance of the period "30 days prior to the discovery cut-off date." Local Civil Rule 33.3(b), (c). The interrogatories you served violate Local Rule 33.3 and we ask

that you immediately withdraw those interrogatories. *See* Rule 33.3, Local Rules for the Southern District of New York; *see also Shannon v. New York City Transit Auth.*, No. 00 CIV. 5079 (Sweet, J.), 2001 WL 286727, at *3 (S.D.N.Y. Mar. 22, 2001); accord *Gary Friedrich Enterprises, LLC v. Marvel Enterprises, Inc.*, No. 08 CIV. 1533 BSJ JCF, 2011 WL 1642381, at *4 (S.D.N.Y. Apr. 26, 2011). Specifically, Rule 33.3 provides:

> (a) Unless otherwise ordered by the Court, at the commencement of discovery, interrogatories will be restricted to those seeking names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature.
>
> (b) During discovery, interrogatories other than those seeking information described in paragraph (a) above may only be served (1) if they are a more practical method of obtaining the information sought than a request for production or a deposition, or (2) if ordered by the Court.
>
> (c) At the conclusion of other discovery, and at least 30 days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the Court has ordered otherwise.

Similarly, Requests for Production numbers 1, 2, 4, 6(i), 9, 12, 30, 35 and 37 also violate Local Rule 33.3 in that they rely on the offending interrogatory requests. The Rule provides that a party must first try to obtain discovery through document production and testimony. Discovery does not close in this case until July 1, 2016, and Defendant has not yet noticed a deposition. As such, these interrogatories violate Local Rule 33.3 and are premature.

Defendant's First Set of Discovery Requests also violates Rule 33, Fed. R. Civ. P., which provides "a party may serve on any other party no more than 25 interrogatories, including all discrete subparts" – in that Defendant has served a total of 59 interrogatories, including subparts, in violation of Rule 33. We ask that you immediately withdraw those interrogatories that exceed the 25 interrogatory limit set by Rule 33.

Ms. Giuffre objects to Defendant's First Set of Discovery Requests to the extent they seek information that is protected by any applicable privilege, including but not limited to, attorney client privilege, work product privilege, joint defense/common interest privilege, agency privilege, investigative privilege, spousal privilege, doctor/patient privilege, accountant/client privilege, and any other applicable privilege.

Ms. Giuffre objects to the requests to the extent Defendant's First Set of Discovery Requests call for the production of documents or information that is already in the possession, custody, or control of the Defendant. Ms. Giuffre further objects to the requests to the extent that Defendant's First Set of Discovery Requests is duplicative of documents and information that can equally or more readily be obtained by the Defendant.

Ms. Giuffre objects to the requests to the extent that they seek documents that are not relevant, material, or necessary to this action and, thus, are not reasonably calculated to lead to the discovery of admissible evidence. Many of the requests in the Defendant's First Set of Discovery seek documents that are in no way limited to their relation to this case. Indeed, they seek documents that are not important to resolving the issues; documents that are not relevant to any party's claim or defense; and documents that are not proportional to the needs of the case. Such requests create a heavy burden on Ms. Giuffre that outweighs any benefit. Such discovery is prohibited by the Federal Rules of Civil Procedure, particularly under the 2015 amendments to Rule 26(b)(1), Fed. R. Civ. P., and is wholly inappropriate.

Ms. Giuffre objects to the requests to the extent that they are overly broad and unduly burdensome, as individually logging all privileged responsive documents would be overly burdensome. Plaintiff contends that requests targeting such privileged information are overly broad under Rule 26(b)(1), Fed. R. Civ. P. Specifically, Ms. Giuffre objects to the requests as

overly burdensome to the extent that they would require logging voluminous and ever-increasing privileged communications between Ms. Giuffre and her counsel after the date litigation commenced on September 21, 2015. Ms. Giuffre objects to the requests as overly burdensome to the extent that they would require logging voluminous privileged documents between Ms. Giuffre and her counsel related to *Jane Doe #1 and Jane Doe #2 v. United States*, Case no. 08-80736-CIV-Marra, pending in the Southern District of Florida; *Bradley Edwards and Paul Cassell v. Alan Dershowitz*, Case no. CACE 15-000072, pending in the Seventeenth Judicial Circuit, Broward County, Florida; and *Jane Doe No. 102 v. Jeffrey Epstein*, Case No. 09-80656-CIV-Marra/Johnson (Southern District of Florida). Accordingly, due the undue burden of individually logging responsive privileged documents related to Defendant's overly broad requests, Plaintiff has employed categorical logging of such privileged responsive documents pursuant to Local Civil Rule 26.2(c).

Ms. Giuffre objects to the requests in that they seek to invade her privacy for the sole purpose of harassing and intimidating Ms. Giuffre who was a victim of sexual trafficking. Ms. Giuffre objects to the requests to the extent they are overly broad and unduly burdensome.

Ms. Giuffre objects to Defendant's definition of "your attorneys" because it includes names of attorneys that do not represent her, including Spencer Kuvin and Jack Scarola.

Ms. Giuffre's responses to Defendant's First Set of Discovery Requests are being made after reasonable inquiry into the relevant facts, and are based only upon the information and documentation that is presently known to her. Ms. Giuffre reserves the right to modify and/or supplement her responses. Ms. Giuffre is producing documents and information herewith, and she will continue to review and produce relevant documents until completion.

Ms. Giuffre incorporates her above-listed general objections in the responses herein.

INTERROGATORIES

1. State:

   a. Your present residential address;

   b. Each residential address You have had since 1998, including any residential treatment facilities;

   c. the dates You lived at each address;

   d. the other Persons who lived with You at each address and for what period of time they lived at such address.

Response to Interrogatory One:

Ms. Giuffre objects to this interrogatory in part because it violates Rule 33.3. Ms. Giuffre objects to this interrogatory in that it seeks information that is sought by Defendant only to harass and intimidate Ms. Giuffre who was a victim of sexual trafficking.

a. Due to safety concerns with respect to Ms. Giuffre and her minor children, she is not at liberty to reveal her present residential location. To ensure that Defendant is not prejudiced by the failure to provide information about Ms. Giuffre's specific residential location, Ms. Giuffre agrees to have her attorney's accept service on her behalf of any necessary communication or filings in this matter to be addressed to: Sigrid McCawley, Esq. Boies Schiller & Flexner LLP, 401 East Las Olas Blvd., Suite 1200, Fort Lauderdale, FL 33316.

b. Ms. Giuffre can recall living at the following addresses during the period of 1998 to the present. Ms. Giuffre may have lived at other locations for which she does not presently have the address. Ms. Giuffre is providing the

information she has presently to the best of her recollection and will supplement to the extent she obtains additional information responsive to this interrogatory.

c. Ms. Giuffre believes she has lived at the following residences:

- In January 1998, Ms. Giuffre was 14 years old. Ms. Giuffre recalls one facility named "Growing Together" that was located in or around Palm Beach, but she does not recall the dates when she resided at the facility.
- Ms. Giuffre lived and travelled with Jeffrey Epstein and stayed at his various mansions in New York, Palm Beach, New Mexico (Zorro Ranch), and U.S.V.I.
- Jeffrey Epstein also rented a residence for Ms. Giuffre in Royal Palm Beach, the exact address and dates of rental are in the possession, custody and control of Jeffrey Epstein. Tony Figueroa, James Michael Austrich and a few other individuals for whom Ms. Giuffre cannot recall the names of, stayed with her from time to time at the residence that Jeffrey Epstein rented.
- Ms. Giuffre's parents' address was 12959 Rackley Road, Loxahatchee, Florida 33470, and she lived there from time to time with her family.
- 2C Quentin St. Basshill NSW in approximately 2003, but she is not certain of that date. At this location, Ms. Giuffre lived with Robert Giuffre.

- N. Paramentata, NSW from approximately 2003 - 2005, but she is not certain of those dates. At this location, Ms. Giuffre lived with Robert Giuffre.
- Blue Bay, NSW from approximately 2005 - 2008 but is not certain of those dates. At this location, Ms. Giuffre lived with Robert Giuffre.
- 3 Elk St., NSW from approximately 2008 - 2009 but is not certain of those dates. At this location, Ms. Giuffre lived with Robert Giuffre.
- 50 Robertson Road, Basshill, NSW, but is not certain of the date. At this location, Ms. Giuffre lived with Robert Giuffre.
- 50 Bondeena Rd., Glenning Valley, NSW from approximately 2009 - 2013 but is not certain of those dates. At this location, Ms. Giuffre lived with Robert Giuffre.
- 5035 Winchester Drive, Titusville, FL from approximately 2013 to 2014 but is not certain of those dates. At this location, Ms. Giuffre lived with Robert Giuffre.
- 1270 J. Street, Penrose, CO 81240, from approximately 2014 – 2015. At this location Ms. Giuffre lived with Robert Giuffre.

2. Identify any email address, email account, cellphone number and cellphone provider, social media account and login or screen name, text or instant messaging account name and number, that You have used, applied for or been supplied between 1998 and the present.

Response to Interrogatory No. 2

Ms. Giuffre objects to this request in that it violates Rule 33.3. Ms. Giuffre objects to this request in that it is overly broad and seeks information solely to harass and intimidate Ms. Giuffre.

For the period of 1998 to the present Ms. Giuffre provides the following information. During the time period that she was sexually trafficked by Jeffrey Epstein and the defendant, the defendant provided Ms. Giuffre with a cellphone so that she could be reached by the Defendant and Jeffrey Epstein at any time. Defendant is in possession of the information relating to this cellphone that she provided to Ms. Giuffre. Ms. Giuffre is responding with the information she can presently recall, but to the extent she obtains additional information she will supplement this response. Ms. Giuffre's e-mail address is [redacted] She can recall having the following cell number [redacted] Ms. Giuffre had a Facebook account for a short time but it is no longer active.

3. Identify each attorney who has represented you from 1998 to the present, the dates of any such representation, and the nature of the representation.

Response to Interrogatory No. 3

Ms. Giuffre objects to this interrogatory as it seeks privileged information relating to her representation by attorneys. Ms. Giuffre responds that she has been represented by the following attorneys: Bob Josefsberg and members of his firm; Stan Pottinger, Brad Edwards from Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.; Paul Cassell, a Professor of Criminal Law at the S.J. Quinney College of Law at the University of Utah; David Boies and Sigrid McCawley of Boies Schiller & Flexner LLP.

4. Identify each Communication, including the transmission of any Document, that You or Your Attorneys have had with any local, state or federal law enforcement agent or agency, whether in the United States or any other country, whether in Your capacity as a purported victim, witness, or perpetrator of any criminal activity, and whether as a juvenile or as an adult, including without limitation:

a. the date of any such Communication;

b. the form of any such Communication, whether oral or written and if written, the format of any such Communication;

c. the identities of all persons involved in the Communication, including the identity of the law enforcement agency with whom the agent is or was affiliated;

d. the case number associated with any such Communication;

e. the subject matter of any such Communication;

f. the disposition of any case associated with any such Communication, irrespective of whether the matter was sealed, expunged or later dismissed.

Response to Interrogatory No. 4

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this interrogatory in that it seeks protected information regarding confidential investigations. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre responds as follows: Ms. Giuffre met with the FBI on or about March 17, 2011. Ms. Giuffre also corresponded with Maria Villafano from the U.S. Attorney's office and that correspondence has been produced. As to other investigations by law enforcement, Ms. Giuffre objects as this seeks information covered by the investigative privilege.

5. Identify each Communication that You or Your Attorneys have had with any author, reporter, correspondent, columnist, writer, commentator, investigative journalist,

photojournalist, newspaper person, freelance reporter, stringer, or any other employee of any media organization or independent consultant to the same, including:

a. the date of any such Communication;

b. the form of any such Communication, whether oral or written and if written, the format of any such Communication;

c. the identities of all persons involved in such Communication, including the identity of the media organization with whom the agent is or was affiliated;

d. the article title, date of publication, and means of publication of any article, report, or re-printing of any such Communication made by You or Your Attorneys;

e. the amount of Income that You and/or Your Attorneys received in exchange for any such Communication;

f. the dates on which You and/or Your Attorneys received any such Income for any such Communication.

Response to Interrogatory No. 5

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects in that this request is overly broad and unduly burdensome.

6. Identify any "false statements" attributed to Ghislaine Maxwell which were "published globally, including within the Southern District of New York" as You contend in paragraph 9 of Count 1 of Your Complaint, including:

a. the exact false statement;

b. the date of its publication;

c. the publishing entity and title of any publication containing the purportedly false statement;

d. the URL or internet address for any internet version of such publication; and

e. the nature of the publication, whether in print, internet, broadcast or some other form of media.

Response to Interrogatory No. 6

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre further objects because the information requested above is in the possession of Defendant who has failed to comply with her production obligations in this matter.

7. State whether You believe that You have ever been defamed by anyone other than Ghislaine Maxwell. If so, as to each alleged act of Defamation, state

a. the exact false statement;

b. the date of its publication;

c. the publishing entity and title of any publication containing the purportedly false statement;

d. the URL or internet address for any internet version of such publication; and

e. the nature of the publication, whether in print, internet, broadcast or some other form of media.

Response to Interrogatory No. 7

Ms. Giuffre objects to this request in that it violates Local Rule 33.3. Ms. Giuffre objects to this request in that it seeks information protected by the attorney client and work product privileges. Ms. Giuffre objects to this interrogatory in that it is not limited in time or to the subject nature of this litigation.

8. Identify the individuals referenced in Your pleadings filed in the U.S. District Court for the Southern District of Florida, *Jane Doe 1 and Jane Doe 2 v. United States of America*, 08-cv-80736-KAM, as the "high-profile non-party individuals" to whom Mr. Jeffrey Epstein sexually trafficked You, "including numerous prominent American politicians, powerful business executives, foreign presidents, a well-known Prime Minister, and other world leaders," including as to each episode of alleged sexual trafficking:

a. the date of any such sexual trafficking;

b. the location of any such sexual trafficking;

c. any witnesses to any such sexual trafficking;

d. any Income You received in exchange for such sexual trafficking; and

e. any Documents You have to support or corroborate Your claim of such sexual trafficking.

Response to Interrogatory No. 8

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Additionally, Ms. Giuffre objects to this interrogatory because naming some such individuals would jeopardize her physical safety based on credible threats to the same. Ms. Giuffre refers to the list of witnesses identified in her Revised Rule 26 Disclosures.

9. Identify any Employment You have had from 1996 until the present, including without limitation, the name of Your employer or the name of any Person who engaged You for such Employment, the address and telephone number for any such Employment, the beginning and ending dates of any such Employment, Your job title in such Employment, and Your Income from such Employment.

Response to Interrogatory No. 9

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that it is overly broad and unduly burdensome, and seeks information that is not relevant to this case.

10. Identify any Income from any source other than Your Employment that You have received from January 1, 1996 until the present, including the Person or entity providing such Income, the amount of the Income, the dates on which any such Income was received, and

the nature of the Income, whether a loan, investment proceeds, legal settlement, asset sale, gift, or other source.

Response to Interrogatory No. 10

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this request in that it is overly broad and seeks confidential financial information. Ms. Giuffre objects to this interrogatory in that it seeks information covered by confidentiality provisions. Ms. Giuffre objects to this information in that any payment information for the sexual trafficking she endured at the hands of Jeffrey Epstein and Ghislaine Maxwell is in the possession, custody and control of the Defendant and Jeffrey Epstein.

11. Identify any facts upon which You base Your contention that You have suffered as a result of the Alleged Defamation by Ghislaine Maxwell "past and future lost wages and past and future loss of earning capacity and actual earnings – precise amounts yet to be computed, but not less than $5,000,000."

Response to Interrogatory No. 11

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this interrogatory in that it prematurely seeks expert witness disclosures. Ms. Giuffre incorporates by reference herein her Revised Rule 26 disclosures, which includes her computation of damages.

12. Identify any Health Care Provider from whom You received any treatment for any physical, mental or emotional condition, that You suffered from subsequent to any Alleged Defamation by Ghislaine Maxwell, including:

a. the Health Care Provider's name, address, and telephone number;

b. the type of consultation, examination, or treatment provided;

c. the dates You received consultation, examination, or treatment;

d. whether such treatment was on an in-patient or out-patient basis;

e. the medical expenses to date;

f. whether health insurance or some other person or organization or entity has paid for the medical expenses; and

g. for each such Health Care Provider, please execute the medical and mental health records release attached hereto as Exhibit A.

Response to Interrogatory No. 12

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this request in that it is overbroad and seeks confidential medical information of a sex abuse victim and is not limited in scope to the issues in this case. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege.

13. Identify any Health Care Provider from whom You received any treatment for any physical, mental or emotional condition, including addiction to alcohol, prescription or illegal drugs, that You suffered from prior to the Alleged Defamation by Ghislaine Maxwell, including:

a. the Health Care Provider's name, address, and telephone number;

b. the type of consultation, examination, or treatment provided;

c. the dates You received consultation, examination, or treatment;

d. whether such treatment was on an in-patient or out-patient basis;

e. the medical expenses to date;

f. whether health insurance or some other person or organization or entity has paid for the medical expenses; and

g. For each such Health Care Provider, please execute the medical and mental health records release attached hereto as Exhibit A.

Response to Interrogatory No. 13

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this request in that it is overbroad and seeks confidential medical information of a sex abuse victim and is not limited in scope to the issues in this case. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that it is not limited in scope to the medical information relating to the abuse she suffered from Defendant and Jeffrey Epstein.

14. Identify any Person who You believe subjected You to, or with whom You engaged in, any illegal or inappropriate sexual contact, conduct or assault prior to June 1999, including the names of the individuals involved, the dates of any such illegal or inappropriate sexual contact, conduct or assault, whether Income was received by You or anyone else concerning such event, whether a police report was ever filed concerning such event and the outcome of any such case, as well as the address and location of any such event.

Response to Interrogatory No. 14

Ms. Giuffre objects to this interrogatory in that it violates Local Rule 33.3. Ms. Giuffre objects to this request in that it is overbroad and seeks confidential medical information of a sex abuse victim. Ms. Giuffre objects to this request in that it seeks sexual assault information for a

period prior to the sexual abuse at issue in this matter for a period when she was a minor child from the time Ms. Giuffre was born until she was 15. Ms. Giuffre objects to this request in that it is sought solely to harass, and intimidate Ms. Giuffre who is a victim of sexual abuse by the defendant.

REQUESTS FOR PRODUCTION

1. **All Communications and Documents identified in Interrogatories 1-14, above**.

Response to Request No. 1

Ms. Giuffre objects to this request in that Defendant's interrogatories violate Local Rule 33.3. Ms. Giuffre objects to this request in that it seeks information that is protected by the attorney client, work product, joint defense, investigative, spousal and other applicable privileges. Ms. Giuffre objects to this request in that it is overly broad, incorporating the interrogatories that total 59 subparts. Ms. Giuffre objects to this request in that it seeks to invade the privacy rights of a sex abuse victims, and is meant for the improper purpose of harassing and intimidating this victim. Subject to the forgoing objections Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre is withholding documents based on her objections.

2. **All Documents reviewed or relied upon in answering Interrogatory Nos. 1-14 above.**

Response to Request No. 2

Ms. Giuffre objects to this request in that defendant's interrogatories violate Local Rule 33.3. Ms. Giuffre objects to this request in that it seeks information that is protected by the attorney client, work product, joint defense, investigative, spousal and other applicable

privileges. Ms. Giuffre objects to this request in that it is overly broad incorporating the interrogatories that total 59 subparts. Ms. Giuffre objects to this request in that it seeks to invade the privacy rights of a sex abuse victims and is meant for the improper purpose of harassing and intimidating this victim. Subject to the forgoing objections Ms. Giuffre has produced non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre is withholding documents based on her objections.

3. All Documents from any law enforcement agency, whether local, state or federal, whether in the United States or elsewhere, which concern or relate to You in any way. These Documents should include, without limitation, any witness statements, including statements made by You.

Response to Request No. 3

Ms. Giuffre objects to this request in that it seeks information that is protected by the attorney client, work product, joint defense, investigative, spousal and other applicable privileges. Ms. Giuffre objects to this request in that it is not limited in time period. Subject to the forgoing objections, Ms. Giuffre has produced non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre is withholding documents based on her objections.

4. All Documents reflecting any letter of engagement, any fee agreement, or any other type of writing reflecting an engagement of any attorney identified in response to Interrogatory No. 3.

Response to Request No. 4

Ms. Giuffre objects to this request in that it seeks information that is protected by the

attorney client, work product, joint defense and other applicable privileges. Ms. Giuffre is withholding documents based on this objection.

5. All Documents relating to any Communications occurring from 1998 to the present with any of the following individuals or with their attorneys, agents or representatives:

a. Jeffrey Epstein;

b. Ghislaine Maxwell

c. Any witness disclosed in Plaintiff's Rule 26(a) disclosures;

d. Any witness identified by You in response to Interrogatory No. 8 and No. 14;

e. Sky Roberts;

f. Lynn Roberts;

g. Kimberley Roberts;

h. Daniel LNU, half-brother of Plaintiff;

i. Carol Roberts Kess;

j. Philip Guderyon;

k. Anthony Valladares;

l. Anthony Figueroa;

m. Ron Eppinger

Response to Request No. 5

Ms. Giuffre objects to this request in that it is overly broad seeking documents relating to **over 60 individuals**. Ms. Giuffre objects because compliance with this request is unduly burdensome. Ms. Giuffre objects to this request in that documents responsive to this request are

within the possession, custody and control of the defendant and Jeffrey Epstein with whom she claims a joint defense privilege and defendant has refused to produce responsive documents to Ms. Giuffre's request seeking communications between the Defendant and Ms. Giuffre and between Jeffrey Epstein and Ms. Giuffre. Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre objects to this request in that it is sought solely to harass and intimidate Ms. Giuffre, and invade her privacy, by seeking her private communications with her various family members, including aunts, uncles and parents and siblings. Ms. Giuffre is producing herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

6. All photographs or video containing any image of You and the following individuals. To the extent You have such photographs and video in their original, native format, please produce them in that format (not a paper copy).

a. Ghislaine Maxwell

b. Alan Dershowitz

c. Jeffrey Epstein

d. Andrew Albert Christian Edward, the Duke of York (aka Prince Andrew)

e. Ron Eppinger

f. Bill Clinton

g. Stephen Hawking

h. Al Gore

i. Any of the individuals identified by You in response to Interrogatory No. 8 and No. 14.

Response to Request No. 6

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein with whom she claims a joint defense privilege and defendant has refused to produce responsive documents to Ms. Giuffre's request seeking communications between the Defendant and Ms. Giuffre and between Jeffrey Epstein and Ms. Giuffre. Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre is producing herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre does not have "original, native format," as requested so she is producing the paper copies she has in her possession, custody and control. The Defendant has documents responsive to this request that she should produce.

7. **All photographs and video of You in any of Jeffrey Epstein's properties, including, but not limited to: his home in Palm Beach, Florida; his home in New York City, New York; his ranch in Santa Fe, New Mexico; and Little Saint James island in the U.S. Virgin Islands. To the extent You have such photographs and video in their original, native format, please produce them in that format (not a paper copy).**

Response to Request No. 7

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein with whom she claims a joint defense privilege and defendant has refused to produce responsive

documents to Ms. Giuffre's request seeking communications between the Defendant and Ms. Giuffre and between Jeffrey Epstein and Ms. Giuffre. Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre is producing herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre does not have "original, native format," as requested so she is producing the paper copies she has in her possession, custody and control. The Defendant has documents responsive to this request that she should produce.

8. **All photographs or video of You in any of Ms. Maxwell's properties, including her home in London, England and her home in New York City, New York. To the extent You have such photographs or video in their original, native format, please produce them in that format (not a paper copy).**

Response to Request No. 8

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents to Ms. Giuffre's request seeking communications between the Defendant and Ms. Giuffre and between Jeffrey Epstein and Ms. Giuffre. Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre is producing herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production. Ms. Giuffre does not have "original, native format," as requested so she is

producing the paper copies she has in her possession, custody and control. The Defendant has documents responsive to this request that she should produce.

9. **Any Documents reflecting rental agreements or purchase agreements for the residential addresses identified by You in response to Interrogatory No. 1**.

Response to Request No. 9

Ms. Giuffre objects to this request in that it seeks confidential financial information that is irrelevant to this action. Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre objects to this request in that the information regarding rental agreements for the apartments that Defendant and Jeffrey Epstein rented for her are in the Defendant's possession, control and custody. Ms. Giuffre objects to this request in that it is not limited to rental agreements relevant to this action, so it is overly broad and unduly burdensome. Ms. Giuffre produces is producing non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

10. All Documents relating to Your Employment and/or association with the Mar-a-Lago Club located in Palm Beach, Florida, including any application for Employment.

Response to Request No. 10

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

11. Any Document reflecting any confidentiality agreement by and between, or concerning, You and the Mar-a-Lago Club.

Response to Request No. 10

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre does not have any non-privileged documents responsive to this request

12. All Documents concerning any Employment by You from 1998 to the present or identified by You in response to Interrogatory No. 9, including any records of Your Employment at the Roadhouse Grill in Palm Beach, Florida.

Response to Request No. 12

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

13. All Documents concerning any allegations of theft by You from the Roadhouse Grill in Palm Beach, Florida from 1999 – 2002.

Response to Request No. 13

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that it wrongfully characterizes a "theft by You". Ms. Giuffre objects to this

request as it seeks documents of sealed juvenile records, and the only means of obtaining such records are either through court order or illegal means. Ms. Giuffre does not have any non-privileged documents responsive to this request.

14. A copy of Your federal, state or local tax returns for the years 1998 to the present, whether from the United States or any other country.

Response to Request No. 14

Ms. Giuffre objects to this request in that it seeks confidential financial information that is irrelevant to this action. Ms. Giuffre objects to this request in that it seeks financial information from her when she was a minor child starting at age 14. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

15. All Documents concerning Your attendance at or enrollment in any school or educational program of whatever type, from 1998 to the present.

Response to Request No. 15

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that her school records from when she was a minor child are an invasion of privacy, and sought only to

harass and embarrass her. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

16. Any diary, journal or calendar concerning Your activities between 1996 – 2002.

Response to Request No. 16

Ms. Giuffre objects to this request to the extent it seeks proprietary and copyright protected materials. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that it seeks highly personal and sensitive material from a time when she was being sexually trafficked. Ms. Giuffre does not have any non-privileged documents created during the time period responsive to this request.

17. All Documents relating to Your travel from the period of 1998 to the present, including, but not limited to a copy of Your passport that was valid for any part of that time period, any visa issued to You for travel, any visa application that You prepared or which was prepared on Your behalf, and travel itinerary, receipt, log, or Document (including any photograph) substantiating Your travel during that time period.

Response to Request No. 17

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other

applicable privilege. Ms. Giuffre objects to this request in that it is overly broad and not limited to travel records relevant to the abuse she suffered. Ms. Giuffre objects to this request in that it seeks information that is wholly irrelevant to this lawsuit. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

18. All Documents showing any payments or remuneration of any kind made by Jeffrey Epstein or any of his agents or associates to You from 1999 until the present.

Response to Request No. 18

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein with whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. At this point in time, Ms. Giuffre has not found any non-privileged documents responsive to this request, but continues to search for responsive documents.

19. Any Document reflecting a confidentiality agreement, settlement agreement, or any contractual agreement of any kind, between You and Jeffrey Epstein, or any attorneys for You and/or Mr. Epstein.

Response to Request No. 19

Ms. Giuffre objects to this request in that the documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein with whom she

claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre is in possession of a document that contains a confidentiality provision. If Defendant obtains, and produces to Ms. Giuffre, a written waiver from her co-conspirator, Mr. Epstein, of the confidentiality provision, she will produce the document.

20. Any Document reflecting Your intent, plan or consideration of, asserting or threatening a claim or filing a lawsuit against another Person, any Document reflecting such a claim or lawsuit, including any complaint or draft complaint, or any demand for consideration with respect to any such claim or lawsuit against any Person.

Response to Request No. 20

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative, spousal or any other applicable privilege. Ms. Giuffre objects because this request is overly broad and unduly burdensome in that it seeks wholly privileged communications from other cases the logging of which on a privilege log would be unduly burdensome. As such, Ms. Giuffre is providing categorical privilege entries relating to those matters. At this point in time, Ms. Giuffre has not found any non-privileged documents responsive to this request, but continues to search for responsive documents.

21. All Documents relating to Your driver's license from 1998 – 2002.

Response to Request No. 21

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. At this point in time, Ms. Giuffre has not found any documents responsive to this request, but continues to search for responsive documents.

22. A copy of Your marriage license(s) from 1999 to the present.

Response to Request No. 22

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this production.

23. All documents concerning Your naturalization application to Australia from 1999 to the present.

Response to Request No. 23

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other

applicable privilege. At this point in time, Ms. Giuffre has not found any non-privileged documents responsive to this request, but continues to search for responsive documents.

24. All Documents concerning Your Employment in Australia, including, but not limited to employment applications, pay stubs, Documents reflecting Your Income including any tax Documents.

Response to Request No. 24

Ms. Giuffre objects to this request in that it seeks confidential financial information Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre objects to this request in that it seeks overly broad financial information not tailored to the sexual abuse and defamation issues in this case. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this request.

25. All Documents concerning any massage therapist license obtained by You, including any massage therapy license issued in the United States, Thailand and/or Australia.

Response to Request No. 25

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. At this point in time, Ms. Giuffre has not found any non-

privileged documents responsive to this request, but continues to search for responsive documents.

26. All Documents concerning any prescription drugs taken by You, including the prescribing doctor, the dates of said prescription, and the dates of any fulfillment of any such prescription.

Response to Request No. 26

Ms. Giuffre objects to this request in that it is not limited in date range in any way; therefore if she was on a prescription drug **when she was 2 years old**, she would have to produce that document. Ms. Giuffre also objects to this request in that it is not limited to prescription drugs she has taken as a result of the abuse she endured. Ms. Giuffre objects to this request to the extent it seeks confidential medical records that are not relevant to this action. Ms. Giuffre objects to this request in that it seeks confidential financial information Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre is limiting her production to prescription drugs that relate to the abuse she suffered and the defamation by Defendant. Ms. Giuffre is withholding responsive documents that are irrelevant to this lawsuit, but is producing documents relating to prescription drugs relating to her treatment for sexual abuse she suffered, and relating to conditions or symptoms arising after Defendant's defamatory statement. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement this request.

27. All Documents, written or recorded, which reference by name, or other description, Ghislaine Maxwell.

Response to Request No. 27

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production. Ms. Giuffre is withholding documents responsive to this request based on her objections.

28. All Documents reflecting notes of, or notes prepared for, any statements or interviews in which You referenced by name or other description, Ghislaine Maxwell.

Response to Request No. 28

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. At this point in time, Ms. Giuffre has not found any non-privileged documents responsive to this request, but continues to search for responsive documents.

29. All Documents concerning any Communications by You or on Your behalf with any media outlet, including but not limited to the *Daily Mail, Daily Express,* the *Mirror*, *National Enquirer, New York Daily News, Radar Online,* and the *New York Post*, whether or not such communications were "on the record" or "off the record."

Response to Request No. 29

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

30. All Documents concerning any Income received by You from any media outlet in exchange for Your statements (whether "on the record" or "off the record") regarding Jeffery Epstein, Alan M. Dershowitz, Prince Andrew, Bill Clinton or Ghislaine Maxwell or any of the individuals identified by You in response to Interrogatory Nos. 8 and 14.

Response to Request No. 30

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre objects to this request in that it seeks confidential financial information. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

31. All Documents concerning any actual or potential book, television or movie deals concerning Your allegations about being a sex slave, including but not limited to a potential book by former New York Police Department detective John Connolly and writer James Patterson.

Response to Request No. 31

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre objects to this request in that it seeks confidential financial information. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production**.** Ms. Giuffre is withholding documents responsive to this request.

32. All manuscripts and/or other writings, whether published or unpublished, created in whole or in part by or in consultation with You, concerning, relating or referring to Jeffrey Epstein, Ghislaine Maxwell or any of their agents or associates.

Response to Request No. 32

Ms. Giuffre objects to this request to the extent is seeks documents protected by the attorney client, work product, joint defense, investigative or any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre objects to this request in that it seeks confidential financial information. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to

GIUFFRE003190 and will continue to supplement her production. Ms. Giuffre is withholding documents responsive to this request.

33. All Documents concerning or relating to Victims Refuse Silence, the organization referred to in the Complaint, including articles of incorporation, any financial records for the organization, any Income You have received from the organization, and any Documents reflecting Your role within the organization or any acts taken on behalf of the Organization.

Response to Request No. 33

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials. Ms. Giuffre objects to this request in that it seeks confidential financial information. Ms. Giuffre produces herewith non-privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

34. To the extent not produced in response to the above list of requested Documents, all notes, writings, photographs, and/or audio or video recordings made or recorded by You or of You at any time that refer or relate in any way to Ghislaine Maxwell.

Response to Request No. 34

Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre

objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent is seeks proprietary and copyright protected material. Ms. Giuffre produces herewith non privileged documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

35. All phone records, including text messages, emails, social media Communications, letters or any other form of Communication, from or to You or associated with You in any way from 1998 to the present, which concern, relate to, identify, mention or reflect Ghislaine Maxwell, Jeffrey Epstein, Alan Dershowitz, Prince Andrew, Bill Clinton, or any of the individuals identified in response to Interrogatory Nos. 8 and 14.

Response to Request No. 35

Ms. Giuffre objects to this request to the extent it seeks documents from "anyone associated with you" as that is vague and ambiguous. Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent is seeks proprietary and copyright protected material. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will

continue to supplement her production. While Ms. Giuffre has produced her documents, Ms. Giuffre's response does not include documents "from anyone associated with you" based on the above referenced objection.

36. All Documents relating to massages, including but not limited to any Documents reflecting the recruiting or hiring of masseuses, advertising for masseuses, flyers created for distribution at high schools or colleges, and records reflecting e-mails or calls to Persons relating to massages.

Response to Request No. 36

Ms. Giuffre objects to this request in that it is not time limited in any way. Ms. Giuffre objects to this request in that documents responsive to this request are within the possession, custody and control of the defendant and Jeffrey Epstein for whom she claims a joint defense privilege and defendant has refused to produce responsive documents. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

37. Statements or records from any bank into which You deposited money received from Jeffrey Epstein, any Person identified in Interrogatory No. 8 or 14, any witness disclosed in Your Rule 26(a) disclosures, any media organization or any employee or affiliate of any media organization.

Response to Request No. 37

Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the agency privilege, investigative privilege, spousal privilege, accountant client privilege, and any other applicable privilege. Ms. Giuffre objects to this request in that it seeks personal financial information. Ms. Giuffre objects to this request in that it is overly broad as it has no time limitation. Ms. Giuffre produces herewith documents bates labelled GIUFFRE000001 to GIUFFRE003190 and will continue to supplement her production.

Dated: March 16, 2016

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley

Sigrid McCawley (Pro Hac Vice)
Boies Schiller & Flexner LLP
401 E. Las Olas Blvd., Suite 1200
Ft. Lauderdale, FL 33301
(954) 356-0011

David Boies
Boies Schiller & Flexner LLP
333 Main Street
Armonk, NY 10504

Ellen Brockman
Boies Schiller & Flexner LLP
575 Lexington Ave
New York, New York 10022
(212) 446-2300

CERTIFICATE OF SERVICE

I certify that on March 16, 2016, I electronically served *Plaintiff Virginia Giuffre's Responses and Objections to Defendant's First Set of Discovery Requests* on the following:

Laura A. Menninger, Esq.
HADDON, MORGAN & FOREMAN, P.C.
150 East 10th Avenue
Denver, Colorado 80203
Tel: (303) 831-7364
Fax: (303) 832-2628
Email: lmenninger@hmflaw.com

By: /s/ Sigrid McCawley
Sigrid McCawley

EXHIBIT D

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

PLAINTIFF, VIRGINIA GIUFFRE'S FOURTH REVISED DISCLOSURE PURSUANT TO FED. R. CIV. P. 26

COMES NOW the Plaintiff, Virginia L. Giuffre, by and through her undersigned counsel, and serves this revised disclosure pursuant to Fed. R. Civ. P. 26 and states as follows:

A. Witnesses:

1. Virginia L. Giuffre
c/o Sigrid S. McCawley, Esq.
Boies, Schiller & Flexner LLP
401 East Las Olas Boulevard, Suite 1200
Miami, Florida 33301
Tel: (954) 356-0011
Email: smccawley@bsfllp.com

Plaintiff - information regarding Defendant, Ghislaine Maxwell's conduct that is the subject of this action

2. Ghislaine Maxwell
c/o Laura A. Menninger, Esq.
HADDON, MORGAN & FOREMAN, P.C.
150 East 10th Avenue
Denver, Colorado 80203
Tel: (303) 831-7364
Email: lmenninger@hmflaw.com

Defendant in this action.

3. Juan Alessi
[redacted]
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

4. Maria Alessi
[redacted]
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

5. Kathy Alexander
Address unknown at this time.
Telephone number unknown at this time.
Believed to be in South Africa.

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

6. Miles Alexander
Address unknown at this time.
Telephone number unknown at this time.
Believed to be in South Africa.

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

7. Doug Band
President of Teneo Holdings, 601 Lexington Avenue, 45th Floor,
New York, NY 10022, Tel: (212) 886-1600

Was present on flights with Jeffrey Epstein and Ghislaine Maxwell and President Clinton and may have knowledge of Jeffrey Epstein and Ghislaine Maxwell's sexual trafficking conduct and interactions with minors.

8. Gwendolyn Beck

[redacted]

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

9. Sophie Biddle
[redacted]

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

10. [redacted]

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and Virginia Guiffre and may have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

11. Fary Bjorlin
Address Unknown
Telephone Number Uknown

May have information relating to Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

12. Kelly Bovino
[redacted]
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

13. Jean Luc Brunel
c/o Joe Titone, Esq.
621 South East 5th Street, Pompano Beach, FL 33060
Tel: (954) 729-6490

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and Virginia Guiffre and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

14. Ron Burkle
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

15. [redacted]
Address unknown at this time.
Telephone number unknown at this time

Worked for Ghislaine Maxwell and has information about Ghislaine Maxwell's recruiting of girls for Jeffrey Epstein.

16. Carolyn Casey
Address unknown at this time.
Telephone number unknown at this time.

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

17. Alyson Chambers
c/o Marshall Dore Louis, Esq.
Sinclair, Louis & Zavertnik, P.A.
40 N.W. 3rd Street, Suite 200, Miami, FL 33128
Tel: (305) 374-0544

Worked for Jeffrey Epstein as a masseuse during the time that Virginia Giuffre was living and traveling with Jeffrey Epstein and Ghislaine Maxwell, and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

18. William Jefferson Clinton
55 West 125 Street
New York, NY 10027

Travelled with Jeffrey Epstein and Ghislaine Maxwell and may have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

19. Maximilia Cordero
Address unknown at this time
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

20. Valdson Cotrin
Address unknown at this time
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

21. Chauntae Davies
[redacted]
Telephone number unknown at this time

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and may have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

22. Teala Davies
[redacted]
Telephone number unknown at this time

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and may have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

23. Anouska DeGeorgieou
[redacted]
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

24. Alan Dershowitz
c/o Richard A. Simpson, Esq.
WILEY REIN, LLP
1776 K Street NW
Washington, D.C. 20006

Tel: (202) 719-7000

Has knowledge of Defendant's conduct that is the subject of this action.

25. Ryan Dionne
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

26. Eva Anderson Dubin
[redacted]
Telephone number unknown at this time

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

27. Glen Dubin
[redacted]
Telephone number unknown at this time

Was present on flights with Jeffrey Epstein, Ghislaine Maxwell and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

28. [redacted]
Address unknown at this time.
Telephone number unknown at this time.

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

29. Prince Andrew Albert Christian Edward, Duke of York
Buckingham Palace Rd, London SW1A 1AA
[redacted]

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors, including Virginia Giuffre.

30. Records Custodian for Travel for Prince Andrew Albert Christian Edward, Duke of York
Buckingham Palace Rd, London SW1A 1AA
[redacted]

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors, including Virginia Giuffre.

31. Jeffrey Epstein
c/o Marty Weinberg, Esq.
20 Park Plaza, Suite 1000, Boston, MA 02116
[redacted]

Has knowledge of Defendant's conduct that is the subject of this action and knowledge of his sexual trafficking operation and other co-conspirators.

32. Tatiana Espinoza
Address unknown at this time
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

33. Annie Farmer
Address unknown at this time.
Telephone number unknown at this time.

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors, including Virginia Giuffre.

34. Marie Farmer
Address unknown at this time.
Telephone number unknown at this time.

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors, including Virginia Giuffre.

35. Vicky Ward
Address unknown at this time
Telephone unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors, including Virginia Giuffre.

36. Frederic Fekkai
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Defendant's conduct that is the subject of this action.

37. Tony Figueroa
[redacted]
Telephone number unknown at this time

Has knowledge of Defendant's conduct that is the subject of this action.

38. Luciano "Jojo" Fontanilla
[redacted]

Jeffrey Epstein's staff member in his various homes and may have knowledge of Defendant and Jeffrey Epstein's inappropriate conduct with underage girls.

39. Lynn Fontanilla
[redacted]
Telephone number unknown at this time

May have knowledge of Defendant's conduct that is the subject of this action.

40. Michael Friedman
[redacted]
Telephone number unknown at this time

Former house staff and may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with minors.

41. Rosalie Friedman
[redacted]
Telephone number unknown at this time

Former house staff and may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with minors.

42. Ross Gow
Acuity Representation
23 Berkeley Square
London W1J 6HE
[redacted]

Defendant's press agent who has knowledge of the defamatory statements in this case.

43. Tiffany Kathryn Gramza
[redacted]
Telephone number unknown at this time

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

44. [redacted]
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

45. Amanda Grant
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

46. Lesley Groff
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

47. [redacted]

Has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and abuse and interaction with underage minors.

48. Claire Hazel
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

49. Shelly Harrison
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

50. Gina Ignatieva
Address Unknown
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

51. Brett Jaffe
Address noted on Defendant's Rule 26 disclosures

Defendant's attorney.

52. [redacted]
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

53. Sarah Kensington Vickers formerly Sarah Kellen
c/o Bruce Reinhart, Esq.
McDonald Hopkins LLC
505 S Flagler Dr Ste 300
West Palm Beach, FL 33401-5942
Tel: 561- 472-2121

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interactions with minors.

54. Tatiana Kovylina
[redacted]
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

55. [redacted]
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

56. Adam Perry Lang
Address unknown at this time
Telephone number unknown at this time

Traveling chef for Jeffrey Epstein and Ghislaine Maxwell and may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

57. [redacted]
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

58. Michael Liffman

Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

59. Peter Listerman
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

60. Cindy Lopez
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

61. Melinda Lutz
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

62. Cheri Lynch
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

63. Nadia Marcinko formerly Nadia Marcinkova
c/o Jack Goldberger, Esq.
Atterbury, Goldberger, & Weiss, P.A.
250 Australian Ave South, Ste 1400
West Palm Beach, FL 33401-5012
Tel: (561) 659-8300

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

64. Bob Meister
[redacted]

May have information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

65. Todd Meister
[redacted]

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors

66. Brahakmana Mellawa
Address unknown at this time
Telephone number unknown at this time

House staff who may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

67. Jayarukshi Mellawa
Address unknown at this time
Telephone number unknown at this time

House staff who may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

68. [redacted]
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

69. Andrea Mitrovich
Address Unknown
Telephone number unknown at this time.

Knowledge of Defendant's conduct that is the subject of this action.

70. Bill Peadon
[redacted]
Telephone number unknown at this time

House staff that may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

71. Francis Peadon
[redacted]
Telephone number unknown at this time

House staff that may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

72. Tom Pritzker
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

73. Dara Preece
Address Unknown
Telephone Unknown at this time

May have knowledge of Defendant's conduct in this action.

74. Louella Rabuyo
Address unknown at this time
Telephone unknown at this time

House staff that may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

75. Joseph Recarey
[redacted]
Telephone number unknown at this time.

Detective Recarey was the chief investigator of the crimes committed at Jeffrey Epstein's Palm Beach mansion and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

76. Chief Michael Reiter
[redacted]
Telephone number unknown at this time.

Police Chief Reiter oversaw the investigation of the crimes committed at Jeffrey Epstein's Palm Beach mansion and has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and abuse of underage minors.

77. Bill Richardson
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

78. Rinaldo Rizzo
c/o Robert Lewis, Esq.
Freeman Lewis LLP
228 E. 45th Street, 17th Floor
New York, NY 10017
Tel: 212-980-4084

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

79. Haley Robson
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

80. Sky Roberts
[redacted]

Family member who may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

81. David Rodgers
c/o Bruce E. Reinhart, Esq.
McDonald Hopkins LLC
505 S Flagler Dr Ste 300
West Palm Beach, FL 33401-5942
Tel: 561- 472-2121

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

82. Adriana Ross formerly Adriana Mucinska
c/o Alan S. Ross, Esq.
Tel: (305) 858-9550

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

83. Johanna Sjoberg
c/o Marshall Dore Louis, Esq.
40 N.W. 3rd Street, Suite 200, Miami, FL 33128
Tel: (305) 374-0544

Worked for Jeffrey Epstein during the time when Virginia Giuffre was living and traveling with Jeffrey Epstein and Ghislaine Maxwell. Johanna Sjobjerg was also present at an occasion with Prince Andrew, Ghislaine Maxwell, and Virginia Giuffre when Ms. Giuffre was a minor.

84. Kelly Spamm
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

85. Cecilia Stein
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

86. Emmy Taylor
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

87. Evelyn Valenzuela
Address unknown at this time
Telephone number unknown at this time

May have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct.

88. Larry Visosky
c/o Bruce E. Reinhart, Esq.
Tel: (561) 202-6360
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

89. Leslie Wexner
c/o John W. Zeiger, Esq., Zeiger, Tigges & Little LLP
41 South High Street, Suite 3500, Columbus, Ohio 43215
Tel: (614) 365-9900

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

90. Courtney Wild
c/o Bradley Edwards, Esq.
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Tel: (954) 524-2820

Has information about Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

91. Doug Wilson
[redacted]

Family member who may have knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

92. Igor Zinoview
Address unknown at this time
Telephone number unknown at this time

Has knowledge of Ghislaine Maxwell and Jeffrey Epstein's sexual trafficking conduct and interaction with underage minors.

93. All females identified in the police reports or identified through the United State's Attorney's office during or through the criminal investigation of Jeffrey Epstein and his co-conspirators.

94. All other then-minor girls, recruited by Ghislaine Maxwell, whose identities Ms. Giuffre will attempt to determine, with whom Defendant, Ghislaine Maxwell and Jeffrey Epstein, have engaged in sexual activity.

95. All pilots, chauffeurs, chefs, and other employees of either Defendant Maxwell or Jeffrey Epstein with knowledge of Defendant and Jeffrey Epstein's inappropriate conduct with underage girls.

96. All staff and employees at the Mar-a-Lago Club during 1999-2002.

97. All other witnesses learned through discovery process.

B. <u>Relevant Documents</u>:

1. All files held by the Palm Beach Police Department or the Palm Beach State Attorney's office which are publically available.

2. All press releases of Ghislaine Maxwell or on her behalf

3. The video(s) of Ghislaine Maxwell adopting the January, 2015 press statement.

4. All newspaper or other media where Ghislaine Maxwell's press release appears

5. All evidence obtained by the Federal Bureau of Investigations which relate in any way to Jeffrey Epstein or Ghislaine Maxwell.

6. All 302 statements that relate in any way to Jeffrey Epstein or Ghislaine Maxwell.

7. All evidence obtained by the FBI or United States Attorney's office by or through the criminal investigation of Alfredo Rodriguez.

8. All documents relating to the previous subpoenas served on Defendant for her deposition and all documents related in any way to that deposition.

9. All documents evidencing visitors or passengers at any of Jeffrey Epstein owned or controlled property or aircraft.

10. All documents demonstrating the relationship between Bill Clinton and Jeffrey Epstein or Ghislaine Maxwell.

11. All photos of Ghislaine Maxwell at Chelsea Clinton's wedding.

12. All documents or information refuting statements made by Ghislaine Maxwell.

13. All documents and information relating to Prince Andrews travel, including travel to New York City and the Caribbean, in 1999 to 2002.

14. All documents and information from Shopper's Travel evidencing travel, flight records or passenger manifests during the relevant period.

15. All documents and information from David Rigg, Aviation Insurance Agent evidencing travel, flight records or passenger manifests during the relevant period.

C. Exhibits:

1. Palm Beach Police Department report and documents contained within Jeffrey Epstein's criminal files, attached hereto as Exhibit 1.

2. March 10, 2011 Statement on behalf of Ghislaine Maxwell by Media agent Ross Gow, attached hereto as Exhibit 2.

3. September 3, 2008 Victim Notification Letter, attached hereto as Exhibit 3.

4. May 1, 2009 Complaint in Jane Doe No. 102 v. Jeffrey Epstein, CIV-09-80656, in the Southern District of Florida, attached hereto as Exhibit 4.

5. FBI 302 Statement, attached hereto as Exhibit 5.

6. Flight Logs, attached hereto as Composite Exhibit 6.

7. Message Pads from Law Enforcement from trash pull of Jeffrey Epstein's Palm Beach home, attached hereto as Exhibit 7.

8. Jeffrey Epstein's Phone Book, also referred to as his "Black Book," attached hereto as Exhibit 8.

9. Deposition of Sarah Kellen, attached hereto as Composite Exhibit 9.

10. Deposition Transcripts of Juan Alessi, attached hereto as Exhibit 10.

11. Deposition Transcripts of Alfredo Rodriguez, attached hereto as Exhibit 11.

12. January 2, 2015 Corrected Joinder Motion [DE 280] filed in the CVRA action pending in the Southern District of Florida, attached hereto as Exhibit 12. **[All paragraphs between "The Government then concealed from Jane Doe No. 3 the existence of the NPA (pg. 3) and "The Government was well aware of Jane Doe No. 3 when it was negotiating the NPA" (pg. 6) were stricken by Judge Marra.]**

13. January 21, 2015 Declaration of Jane Doe No. 3 filed in the CVRA action pending in the Southern District of Florida, attached hereto as Exhibit 13. **[Paragraphs 4, 5, 7, 11, 13, 15, 19-53, and 59 were stricken by Judge Marra]**

14. February 6, 2015 Declaration of Jane Doe No. 3 filed in the CVRA action pending in the Southern District of Florida, attached hereto as Exhibit 14. **[Paragraphs 7-12, 16, 39 and 49 were stricken by Judge Marra.]**

15. November 25, 2015 Affidavit of Virginia Giuffre, filed in the *Bradley Edwards and Paul Cassell v. Alan Dershowitz* matter, pending in the Seventeenth Judicial Circuit, Broward County, Florida, attached hereto as Exhibit 15.

16. Virginia Roberts' passport, attached hereto as Exhibit 16.

17. Judge Thomas Lynch's January 12, 2016 Confidentiality Order regarding Virginia Giuffre's deposition, attached hereto as Exhibit 17.

18. Documents produced and bates labelled Non-Party VR 000001 – Non-Party VR 000644, in the *Bradley Edwards and Paul Cassell v. Alan Dershowitz* matter, pending in the Seventeenth Judicial Circuit, Broward County, Florida, attached hereto as Exhibit 18.

19. Victims Refuse Silence Articles of Incorporation and Amendment, attached hereto as Composite Exhibit 19.

20. Victims Refuse Silence By-laws, attached hereto as Exhibit 20.

21. Victims Refuse Silence 2016 Annual Report, attached hereto as Exhibit 21.

22. January 3, 2015 Daily Mail article: "Harvard Law Professor Named Alongside Prince Andrew in 'Sex Slave' Case Accuses Alleged Victim of 'Making Up Stories,'" attached hereto as Exhibit 22.

23. January 3, 2015 Press Statement issued by Ross Gow to Express set forth in "Ghislaine Maxwell: I was not a madam for paedophile," attached as Exhibit 23.

24. January 4, 2015 Statement by Ghislaine Maxwell to New York Daily News Reporter "Alleged Madam Accused of Supplying Prince Andrew With Underage Teen for Sex Spotted in NYC – As He's Seen Cutting Swiss Vacation Short to Face Queen," attached hereto as Exhibit 24.

25. February 1, 2015 Mirror article: "Prince Andrew's Pal Ghislaine Maxwell May Sue Over Madam Allegations," attached hereto as Exhibit 25.

26. September 23, 2007 Red Ice Creations Article "Prince Andrew's Friend, Ghislaine Maxwell, Some Underage Girls, and A Very Disturbing Story," attached hereto as Exhibit 26.

27. Photographs, attached hereto as Exhibit 27.

28. April 13, 2010 Deposition Transcript of Nadia Marcinkova, attached hereto as Exhibit 28.

D. Computation of damages:

1. Physical, psychological and psychiatric injuries and resulting medical expenses – in an amount of approximately $ 102,200 present value.

   a. **Computation Analysis**:

      i. Giuffre has had to receive treatment for the psychological harm as a result of Maxwell's conduct towards Giuffre.

      ii. The average annual expenditures for mental health services for adults 18-64 in the United States is $1,751.

      iii. Giuffre needs continuing care as a result of the harm she has suffered. Ms. Giuffre was born August 9, 1983 and was 31.4 years old at the beginning of 2015 when the alleged harm occurred. The average remaining life expectancy for a 31 year old female is 51.1 years.

      iv. Based on a remaining life expectancy of 51.1 years, annual healthcare cost growth of 3.3% and a discount rate of 2.7%, the present value of expected treatment costs is $102,200 as of 1/1/2015.

b. **Supporting Evidence**:

i. Ms. Giuffre is in the process of collecting records from her physicians

ii. Ms. Giuffre's testimony

iii. Ms. Giuffre is in the process of retaining an expert to calculate damages, and will provide further information through expert disclosure.

2. Past, present and future pain and suffering, mental anguish, humiliation, embarrassment, loss of self-esteem, loss of standing in the community, loss of dignity and invasion of privacy in her public and private life not less than $30,000,000.00.

a. **Computation Analysis**

i. Under New York law, defamation per se as alleged in this case presumes damages and special damages do not need to be plead and proven. *See Celle v. Filipino Reporter Enterprises Inc.*, 209 F.3d 163, 179 (2nd Cir. 2000) (Second Circuit holding that '[i]f a statement is defamatory per se, injury is assumed. In such a case 'even where the plaintiff can show no actual damages at all, a plaintiff who has otherwise shown defamation may recover at least nominal damages' and the Second Circuit also confirmed an award of punitive damages). Ms. Giuffre has been severely damaged by the defamation of the defendant, by calling her claims of sexual abuse "obvious lies". The defamation caused Ms. Giuffre to re-live the sexual abuse she previously endured. Ms. Giuffre has suffered and continues to suffer from the pain, mental anguish, humiliation, embarrassment, loss of self-esteem, loss of standing in the community, loss of dignity and invasion of privacy in her public and private life. The computation of this amount is in the province of the jury but Ms. Giuffre contends, including but not limited to, awards in other similar matters, that the amount is not less than $30,000,000.00. Ms. Giuffre is in the process of retaining an expert, and will provide further information through expert disclosure.

b. **Supporting Evidence**

i. Ms. Giuffre's testimony

ii. Witness testimony

iii. Awards in similar matters

iv. Ms. Giuffre is in the process of retaining an expert, and will provide further information through expert disclosure.

3. **Punitive Damages** - to be based upon all relevant factors, including the egregious nature of Defendant, Ghislaine Maxwell's conduct and the need for a large award to punish and deter conduct in view of the vast wealth of Defendant Maxwell, in an amount not less than $50,000,000.00.

a. This calculation is in the province of the jury.

Dated: June 24, 2016.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing Disclosure Pursuant to Fed. R. Civ. P. 26 has been provided by United States mail and electronic mail to all counsel of record identified below, on this 24th day of June, 2016.

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By: /s/ Sigrid McCawley
Sigrid McCawley

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIRGINIA GIUFFRE,

Plaintiff,

-against-

GHISLAINE MAXWELL,

Defendant.

Index No. 15 Civ. 7433 (RWS)

REPLY DECLARATION OF ALAN M. DERSHOWITZ IN FURTHER SUPPORT OF MOTION TO INTERVENE AND UNSEAL

ALAN M. DERSHOWITZ declares under penalty of perjury that the following is true and correct:

1. I am personally familiar with the facts set forth in this Reply Declaration, which I submit in further support of my pending motion to intervene and to unseal the "Requested Documents," as that term is defined in Paragraph 3 of my August 11, 2016 Declaration.

Introduction and Overview

2. Rather than offering a valid and proper basis for opposing my motion, the papers submitted on behalf of plaintiff Virginia Roberts Giuffre—particularly, the lengthy declaration of Paul Cassell, one of Ms. Giuffre's lawyers and a former federal judge—are little more than an effort to revive and further the false and scurrilous allegations of sexual misconduct that compelled me to seek the Court's assistance in the first place. As his declaration makes clear, Mr. Cassell has crossed the line from being a legitimate advocate for a client, to being a lawyer who is seeking to justify his *own* conduct in the face of compelling evidence that his client is a thoroughgoing liar. That was, after all, the gravamen of Mr. Cassell's defamation case against me: the assertion, now repeated at length before this Court, that Ms. Giuffre's lawyers

had a valid basis for disseminating her false, grotesque and impertinent allegations against me in a public filing. And it is that "fight," essentially, that Mr. Cassell reignites in his declaration in this matter. To be clear, this not a fight that that I started and it is certainly not one that I am asking this Court to referee or resolve in any way. I am only asking that the Court refuse to allow its Protective Order, which was entered based upon a stipulation that explicitly contemplated that the Order might be modified, from being used to prevent me from disclosing documents that reveal the truth. Having now, again, been subjected to an unfair and unwarranted false attack on my credibility and reputation for personal rectitude, I have no choice but to respond on the merits.

3. I begin by, again, swearing under oath that I did not sexually abuse Virginia Roberts Giuffre, and that any allegation or suggestion to the contrary is categorically false. I never had sexual contact with Ms. Giuffre of any kind, and, to my knowledge, I never even met her until her deposition in 2016. By swearing to this, I am deliberately exposing myself to a perjury prosecution and disbarment if I am not telling the truth. If Ms. Giuffre were to submit an affidavit repeating her false allegations against me, I would welcome and cooperate with a criminal investigation by any prosecutorial office as to whether it is Ms. Giuffre or I who is committing perjury. It is inescapably clear that one of us is lying under oath. I know it is not me.

4. Against this backdrop, and the facts set forth in my August 11, 2016 Declaration, Mr. Cassell, on his client's behalf, has put into the record a declaration replete with factual inaccuracies, omissions, and flat-out misrepresentations. Among other things, he misstates important elements of both the Crime Victims' Rights Act lawsuit filed by Ms. Giuffre, and others, in Florida (the "CVRA Action"), and the defamation lawsuit that he and his

colleague, Bradley Edwards, brought against me (*Edwards v. Dershowitz*, Case No. CACE 15-000072 (Cir. Ct., Broward Cnty., Fla.)). Moreover, he elides or mischaracterizes testimony gathered in those and other proceedings in order to make them appear inculpatory of me when, in fact, they are just the opposite.

5. In doing so, Mr. Cassell seeks to accomplish two goals simultaneously: *first*, to suppress information—the Requested Documents—which exculpates me from the charges of sexual misconduct, while allowing Ms. Giuffre and her allies to publicly disseminate those selected "facts" that, they believe, support her allegations against me; and, *second*, to prove that Mr. Cassell—and , by extension, his colleague Mr. Edwards and Ms. Giuffre's current lawyers at Boies Schiller & Flexner, LLP—have a valid factual basis for continuing to press Ms. Giuffre's false allegations. Mr. Cassell's effort is an unmitigated failure, as this declaration demonstrates.

6. While much of the Cassell Declaration goes far beyond what is reasonably required to respond to the instant motion, and while it surely has the distinct air of "protesting too much," I cannot stand mute in the face of this continuing assault on my character. As this declaration and the accompanying reply brief will demonstrate, the charges against me are baseless, and unsealing the Requested Document is the only proper response to Ms. Giuffre's efforts to smear me through the legal process.

7. In its effort to block the unsealing of the Requested Documents and to justify Ms. Giuffre's lawyers' decision to represent her, the Cassell Declaration cites five sources: (i) a Palm Beach Police Department Report dated July 19, 2006; (ii) flight logs for the aircraft owned by Jeffrey Epstein; (iii) the fact that a "very well-regarded Florida" lawyer filed a civil complaint against Mr. Epstein on Ms. Giuffre's behalf which accused "academicians"

associated with Mr. Epstein of abusing her; (iv) the testimony of Juan Alessi and Alfredo Rodriguez, two household employees of Mr. Epstein; and (v) what Mr. Cassell alleges is a "pattern of deception" by me to keep the "truth" from coming out. I will address each of these, in detail, in turn. As will immediately become clear, the information presented by Mr. Cassell in no way substantiates Ms. Giuffre's claims. To the contrary, much of the evidence contradicts Ms. Giuffre's version of events. In addition, I offer a few final points about matters that demonstrate clearly that Ms. Giuffre is not a credible witness.

The Palm Beach Police Department Report

8. The Cassell Declaration cites a July 2006 Palm Beach Police Department Report, which identified Jeffrey Epstein's home in Palm Beach as a location at which Mr. Epstein allegedly abused minor victims. Mr. Cassell contends that this Report supports Ms. Giuffre's account that I abused her at the Palm Beach home. *See* Cassell Decl., ¶ 21(a)-(b). But, as Mr. Cassell conceded in his deposition in the *Edwards* defamation case, my name does *not even appear* in the Palm Beach Police Department Report—much less does the Report contain an allegation that I sexually abused someone. *See* Ex. O at 31 (Deposition Transcript of Paul G. Cassell, October 16-17, 2015).

9. Mr. Cassell asserts that the Palm Beach Police Report "showed the sexual abuse was occurring on a daily basis" at the Epstein mansion, and thus "that [it] would have made it obvious to a visiting guest that young girls were coming to the home for sexual purposes." Cassell Decl., ¶ 21(b). Putting aside the conclusory nature of the inference (For example, by what means would it be "obvious," and to which "guests?" I would think that if someone were doing something illegal, such as arranging trysts with underage girls, they would take measures to conceal their conduct), the statement is entirely irrelevant to *me*. First, I was not present in that home—or on Mr. Epstein's private island, or at his New Mexico ranch, or on

his airplane—during the time Ms. Giuffre was associated with him. Dershowitz Decl.,[1] ¶ 9. Nothing about Ms. Giuffre's relationship with Mr. Epstein, or her age, could have been "obvious" to me, because I never met her. Second, there is simply no evidence that Mr. Epstein's alleged abuse of minor victims at his home in Palm Beach was "obvious" or known to any "visiting guests," given that the abuse took is alleged to have taken place in a separate part of the house, namely Mr. Epstein's private bedroom.

10. Ms. Giuffre and her counsel have alleged that she was not the only "young girl" that I had sexual contact with – *i.e.*, that there were others. Of course, no such persons have ever presented themselves to corroborate this accusation. Nonetheless, Mr. Cassell latched on to this allegation as a "basis" for his filing in the CRVA Action, which named me as a serial abuser.

11. Demonstrating how little Mr. Cassell really had to go on in this regard, I ask the Court to consider Mr. Cassell's response to a question put to him in deposition concerning who, other than his client, he had reason to believe was abused by me. All Mr. Cassell could muster was this:

> [CASSELL]: …I have 24 names in mind as possible sexual abuse victims that *Dershowitz may or may not have abused.* And I have not been able to pinpoint exactly what happened, because the people who would be in the best position to help me sort out what the names were [--] specifically Jeffrey Epstein, among others [--] have refused to cooperate and give me those names" (emphasis added).

Ex. O at 36-37.

12. The very idea that Mr. Cassell could claim that, without more, a mere *list* of alleged victims that he believes that I "*may or may not have abused*" would provide a basis for publicly accusing me of heinous crimes, well illustrates Mr. Cassell's mindset.

[1] Citations to "Dershowitz Decl." refer to my August 11, 2016 moving declaration. Exhibits O through X are attached to this Reply Declaration.

13. As the record demonstrates, I could not have abused Virginia Roberts Giuffre because, as the records establish, I was never in Mr. Epstein's Palm Beach home, private island, ranch or airplane during the two years that she was associated with Mr. Epstein. The Palm Beach Police Department Report neither corroborates Ms. Giuffre's false accusation, nor supports the decision by Mr. Cassell, Mr. Edwards and the other lawyers for Ms. Giuffre to publicly accuse me of such pedophila.

The Flight Logs

14. In his Declaration, Mr. Cassell suggests that the flight logs of Mr. Epstein's private jet showing Ms. Giuffre travelling to New York support the conclusion that I abused Ms. Giuffre in New York, because I was a visiting scholar at N.Y.U. and lived in N.Y.U. housing during the 2000-2001 academic year. *See* Cassell Decl., ¶ 21(c). This allegation, and the string of inferences necessary to make it "work," is patently absurd. Millions of people were present in the New York City area when Ms. Giuffre travelled there; it is simply not reasonable to infer from my presence in New York at the same time, apparently, as Ms. Giuffre that I sexually abused her—there or anywhere else.

15. In his deposition in the defamation case against me, Mr. Cassell acknowledged that my name did not appear in the aircraft flight logs during the time period in which Ms. Giuffre was associated with Mr. Epstein:

> [CASSELL]: The face of the flight logs for the relevant period of time, we can call it the hot period of time or whatever you want, did not reveal the presence of Mr. Dershowitz on those flights, yes.
>
> Q: Okay. So during the period—well, actually, there's no flight log that shows Virginia Roberts and Professor Dershowitz on the same airplane, correct?
>
> A: That's my understanding, yes.

Ex. O at 205.

16. Desperate to draw some connection between me and young girls on the airplane, Mr. Cassell also states that the flight logs show me and "an apparently young woman named 'Tatiana' who did not appear to serve any business purpose for Epstein" flying together on Mr. Epstein's plane with Mr. Epstein and other individuals. *See* Cassell Decl. ¶ 21(g) (internal parentheses omitted). What his declaration conveniently fails to mention is that the flight in question took place on November 17, 2005, years after Ms. Giuffre's association with Mr. Epstein concededly ended. *See* McCawley Decl., Ex. 2 at GIUFFRE007135. The connection between a flight in 2005 and Ms. Giuffre's alleged abuse is, of course, non-existent: by 2005, Ms. Giuffre was living in Australia.

17. But that is just a detail. As Mr. Cassell well knows, Tatiana Kovylina, the woman who flew on Mr. Epstein's plane with us and several other people in 2005, was *24 years old* at the time of the flight. During my deposition in the *Edwards* case, I was asked about and shown photos of "Tatiana"; I said that I thought she appeared to "about 25" years old. It turned out that my estimate was correct. This exchange followed:

> [DERSHOWITZ]: … I must say that during the recess, my wife Googled Tatiana and found out that she was, in fact, 24 years old in 1995 [sic - 2005][2], at the time she flew on that airplane. So that my characterization of her as about 25 years old is absolutely correct. And the implication that you sought to draw by showing me those pictures was not only demonstrably false, but you could have easily discovered that the implication you were drawing was demonstrably false by simply taking one second and Googling her name as my wife did."

Ex. P at 216-17 (Deposition Transcript of Alan M. Dershowitz, October 16, 2015).

[2] In fact, I meant the year 2005. According to Wikipedia, Ms. Kovylina was born on November 4, 1981. *See* https://en.wikipedia.org/wiki/Tatiana_Kovylina.

18. Mr. Cassell was present at my October 2015 deposition in the *Edwards* case, and he is aware of Tatiana Kovylina's actual age. Yet, in his Declaration to this Court, he continues to suggest that her presence on Mr. Epstein's airplane in 2005 supports the inference that I was aware of Mr. Epstein's alleged abuse of Ms. Giuffre in 2000-2002, and that I participated in such conduct. Cassell Decl., ¶ 21(g). While Mr. Cassell cloaks this suggestion in language concerning "information [he and Mr. Edwards] relied upon in believing the truth of Ms. Giuffre's allegations," that is too clever by half. *Id*. at 21. The inference that he asks this Court to draw is that the presence of Ms. Kovylina supports the allegations against me. That is simply false.

Ms. Giuffre's Civil Complaint and Her Claim of Abuse by "Academicians"

19. In his Declaration, Mr. Cassell states that he believed Ms. Giuffre's allegations that I sexually abused her, in part, because Bob Josefsberg, "a very well regarded Florida lawyer," apparently believed her, having filed a civil complaint against Mr. Epstein on her behalf. Cassell Decl., ¶21(e). The Josefsberg-filed civil complaint did not name me.

20. Mr. Cassell was not relieved of his professional obligation to investigate the *bona fides* of Ms. Giuffre's claims simply because a different lawyer had already decided to file a case on her behalf. Mr. Casssell's reliance on the case filed by Mr. Josefsberg is particularly inappropriate because the Josefberg-drafted case does *not* name me as an abuser. Moreover, Mr. Josefsberg has continued to maintain a personal and professional relationship with me, something he would not have done if he believed I had abused his client—a fact that Mr. Cassell and the other lawyers could have readily ascertained.

21. Nor was it reasonable to accuse me of pedophila based on the fact that Ms. Giuffre alleged in the Josefsberg-drafted civil complaint that she had been trafficked by Jeffrey

Epstein to "academicians." *Id*. As Mr. Cassell is well aware, Jeffrey Epstein was heavily involved in funding academic research at Harvard and kept an office there,[3] and he was consequently friendly with many academics, including David Gergen, Marvin Minsky, Larry Summers, Stephen Kosslyn, Henry Rosovsky, Howard Gardner, and Stephen Jay Gould, among others. Many of these academics engaged in the same behavior that apparently led Mr. Cassell to believe Ms. Giuffre's allegations that I had abused her. According to workers at Mr. Epstein's Palm Beach mansion, he received visits from "friends from Harvard" and other "very important people." Ex. U at 28 (Deposition Transcripts of Alfredo Rodriguez, July 29, 2009 and August 7, 2009). All of the "evidence" that Ms. Giuffre and her lawyers claim implicates *me* is equally applicable to dozens of *other* academics and public figures who were associated with Mr. Epstein—including Larry Summers, Stephen Hawking, Henry Rosovsky, Nathan Myhrvold, Steven Pinker, Martin Nowak, Daniel C. Dennett, David Gergen, George Church, Richard Dawkins, Gerard 't Hooft, David Gross, Frank Wilzek, Howard Gardner, Stephen Jay Gould, and many others.

22. Of course, Ms. Giuffre's credibility on these matters is nil. To cite one example, Harvard Professor [redacted] is one of the "academicians" Ms. Giuffre has accused. In the Manuscript that I am trying to unseal, Ms. Giuffre describes having sex with [redacted] in great detail:

> Two weeks later, as if Jeffrey was trying to lighten my spirits, he told me I would be going to his island to meet a new client. He is a

[3] My relationship with Jeffrey Epstein, prior to when he was accused and I became one of his lawyers, was academic and intellectual in nature. Along with many prominent academics, I attended seminars and other events, mostly at his office in Cambridge. I did send him my manuscripts to review and I acknowledged his intellectual input in the acknowledgments to several of my books. Many other academics were acquaintances of Mr. Epstein. They interacted with him on a somewhat regular basis, including during the time period in which he was allegedly abusing Ms. Giuffre, and yet, to my knowledge, they had no idea that he may have engaged in sex acts with minors, because he kept his private life completely separate from his academic life. I have never see Mr. Epstein with an underage girl.

> [redacted]. I would be spending two days with him showing him around the island, dining with him, and treating him to a massage whenever he wanted. Without Jeffrey even verbalizing the need to have sex with him, he told me to keep him happy like I had my first client… [redacted]… By the time dinner was served and another red wine bottle later, he seemed to get funnier. I made fun of his tousled hair and he poked at me for my skinny legs, calling me a wanna-be-anorexic. When dessert was brought out he asked if he could receive one of the delightful massages he has been hearing about from Jeffrey. I gulped more red wine down and sweetly complied with his offer, dreading the moment I'd have to see his naked body, let alone touch it… I gave the massage my earnest as I always had, and quickly got through having intercourse with him. Not wanting to make any foreplay or anything extravagant out of it, I let him think that's as good as it got, and by the smile on his face, I thought I had done enough.

Dershowitz Decl., Ex. B at GIUFFRE004192-93.

In her deposition in the *Edwards* defamation lawsuit, she later denied having sex with [redacted]

> "Q: Have you ever met a [redacted]?
>
> A: Possibly.
>
> Q: Do you know one way or the other?
>
> A: Do I know?
>
> Q: You said possibly?
>
> A: I was introduced to lots of political, scientific, academic, so there is a possibility I could have met him.
>
> Q: Did you ever have sex with [redacted]?
>
> A: No.

Dershowitz Decl., Ex. G at 27.

23. It is inconceivable that Ms. Giuffre could have forgotten about having sex with a man she described in such detail in her Manuscript. She either lied for money in her Manuscript, or committed perjury in her deposition.

24. The same Manuscript that names [redacted] and describes a sexual encounter with him in great detail *does not* mention *me* as someone with whom she claims to have had sex. To the contrary, it mentions me only as someone who had a discussion with Mr. Epstein in his bedroom after he had had sex with Ms. Giuffre. *See* Dershowitz Decl., ¶ 37. This entirely fabricated story was obviously inserted as the result of the email exchange between Ms. Giuffre and Sharon Churcher in which Ms. Churcher urges Ms. Giuffre to include my name in her manuscript in order to make it more marketable. *See* Dershowitz Decl., ¶ 35. It is imperative for me to be able to use those currently-sealed documents—the Emails and the Manuscript in particular—to refute the false allegations against me that have been repeated in public filings in this case, and to support the truth, *i.e.*, that Ms. Giuffre never accused me prior to the CVRA Action. Indeed, because they show that the story about me is of very recent vintage, such documents corroborate the information provided to me by Ms. Giuffre's best and oldest friend: namely that Ms. Giuffre had never accused me of having had sex with her until she felt pressured to do so by her lawyers. This point—that her accusation against me is a recent fabrication—is central to my defense against the false charges that the lawyers in this case continue to level against me, and I have a right to be able to respond to them by self-proving documents.

25. Ms. Giuffre has also claimed to have had sex with such prominent individuals as former [redacted], former Governor of New Mexico Bill Richardson, the late renowned M.I.T professor Marvin Minsky, the chairman of the Hyatt Corporation Tom Pritzker, the former Prime Minister of Israel Ehud

Barak, Prince Andrew of England, another unnamed prince, and several unnamed "foreign presidents," among others. *See, e.g.*, Dershowitz Decl., Ex. G at 10, 15, 18, 20, 24, 38. She has even claimed that all of these individuals, and me, had sex with her without using a condom.[4]

26. To summarize: before choosing to file the Motion for Joinder in the CVRA lawsuit that publicly accused me of pedophilia, Mr. Cassell and Mr. Edwards were aware, or should have been aware, of several other individuals who would fit the description of "academicians" described in the civil complaint submitted by Bob Josefsberg. Moreover, they were aware, or should have been aware, of glaring problems in Ms. Giuffre's credibility. Yet, Ms. Giuffre's lawyers decided to treat her as a credible witness, and to accuse me of a heinous crime on the basis of her inconsistent and incoherent testimony alone. I was the only "academician" named as an abuser, despite the fact that Ms. Giuffre had identified other prominent academics as sexual partners. I believe that I was accused by her because my name—along with that of Prince Andrew—was certain to garner international publicity.

Mr. Epstein's Associates Plead the Fifth

27. In his Declaration, Mr. Cassell asserts that, because three of Epstein's associates—Sarah Kellen, Adrianna Mucinska, and Nadia Marcinkova—asserted their Fifth Amendment privilege against self-incrimination when questioned about me, it was reasonable for him to draw "adverse inference" to the effect that I "was, indeed, involved in Epstein's crimes."

---

[4] Q. Were condoms ever used with Professor Dershowitz?

A: No, and they weren't used with any other people as well.

Q: Were the other people that you were sexual [sic] trafficked to?

A: No.

Dershowitz Decl., Ex. G at 177-78.

Cassell Decl., ¶ 21(h). Mr. Cassell's assumption would be laughable, were not so insidious and improper.

28. In the first place, even a second-year law student knows that adverse inferences can only be drawn against a party who either invokes the Fifth Amendment in a civil case him or herself, or controls the witness who does so (as in an employer-employee relationship). *See LiButti v. United States*, 107 F.3d 110, 123-24 (2d Cir. 1997). Obviously, I have *never* refused to answer questions about Ms. Giuffre's absurd and false allegations against me—I have repeatedly denied them outright, under oath—and I exercise no control over any of Mr. Epstein's associates who invoked their Fifth Amendment privilege. There is absolutely no *legal* basis for an "adverse inference" to be drawn against me by virtue of the privilege invocation by people I barely know and do not control.

29. More importantly, Mr. Cassell's "reliance" on this invocation is, itself, based on a distortion. The fact is, the three women—Sarah Kellen, Adriana Mucinska, and Nadia Marcinkova—all asserted their Fifth Amendment privileges when answering *every single question* posed to them in their depositions, not solely in response to questions about me. For example, here is this exchange from the deposition of Ms. Kellen:

> Q: Did you ever meet Bill Clinton?
>
> . . . .
>
> A [Kellen]: On the instruction of my lawyer, I must invoke my Fifth Amendment right.
>
> Q: Did you ever fly with these three gentlemen and Jeffrey Epstein to Africa on Jeffrey Epstein's 727 airplane?
>
> . . . .
>
> A: At the instruction of my lawyer, I must invoke my Fifth Amendment right.

Ex. R at 39-40 (Deposition Transcript of Sarah Kellen, March 24, 2010).

30. Of course, Mr. Cassell did not draw an "adverse inference" against President Clinton, nor did he accuse the former president of abusing Ms. Giuffre. It would have been unreasonable to have done so.[5]

31. As Mr. Cassell well knows, witnesses risk waving their Fifth Amendment privilege by invoking it only selectively. This is why defense attorneys generally advise their clients to claim the Fifth as to all questions. Therefore, the associates' invocation of their Fifth Amendment privilege when questioned about me cannot substantiate any claim that I abused Ms. Giuffre. Had these individuals been asked if they knew whether I had assassinated John F. Kennedy, they would have taken the Fifth. It is irresponsible for Mr. Cassell, who should know better given his experience as a federal judge, to make that absurd claim.

32. In truth, I sincerely wish that Mr. Epstein's associates had *not* invoked the Fifth Amendment with regard questions about me. Had they testified fully and truthfully, I would have been shown to have done nothing wrong.

The Testimony of Juan Alessi and Alfredo Rodriguez

33. In his Declaration, and in the CVRA filings in December 2014 and January 2015, Mr. Cassell attempts to "place" me at Mr. Epstein's Palm Beach mansion in the time period during which Ms. Giuffre alleges she was there, to connect me to "sex toys" alleged

[5] Likewise, Ms. Kellen, Ms. Mucinska, and Ms. Marcinkova asserted their Fifth Amendment privilege when questioned about a number of celebrities, including David Copperfield, Kevin Spacey, and Les Wexner, among others. One of the prosecuting attorneys, frustrated by this tactic observed:

> I think it's absolutely absurd that she's objecting to some for these questions or taking the Fifth to some of these questions. I mean, I want to Sid [sic] to ask her now if the sky is blue. I think she's going to take the Fifth to that question, as well.

Ex. R at 12.

to have been inside the mansion, to imply that I had received a sexual "massage" at the mansion, and to suggest that the appearance of my name, circled, in Jeffrey Epstein's address book was inculpatory—all by reference to the testimony of two of Jeffrey Epstein's "household employees," Juan Alessi and Alfredo Rodriguez. Cassell Decl., ¶ 21(k)-(m). This effort fails under even cursory scrutiny.

34. First, Mr. Cassell asserts that "Juan Alessi said that [Alan] Dershowitz visited Epstein's Palm Beach mansion four or five times a year, staying two or three days when he went there." Cassell Decl., ¶ 21(k). He then asserts that "Alessi was able to identify a photograph of Ms. Giuffre as someone who was at the mansion as [sic] the same time as Dershowitz." *Id.* Mr. Cassell's characterization of the Alessi testimony is simply false. Juan Alessi *never* testified that Ms. Giuffre was at Epstein's home in Florida at the same time as me.

35. Mr. Cassell's assertion is apparently based on the following portion of Juan Alessi's deposition:

> Q: Do you have any recollection of V.R. coming to the house when Prince Andrew was there?
>
> A: It could have been, but I'm not sure.
>
> Q: Not sure. When Mr. Dershowitz was visiting,--
>
> A: Uh-huh.
>
> Q: --how often did he come?
>
> A: He came pretty -- pretty often.

McCawley Decl., Ex. 6 at 73.

36. But, as the audio recording of this testimony makes clear (and I am happy to provide it), Mr. Alessi's "uh-huh" was simply an acknowledgment that he was about to respond to a question about how often I came to the home during the many years he worked

there. It was not, as Mr. Cassell misleadingly suggests, an affirmation that Ms. Giuffre and I were present at Mr. Epstein's house at the same time.

37. In fact, Mr. Alessi has since provided an affidavit flatly *denying* that he saw both Ms. Giuffre and I at the Palm Beach mansion at the same time.

> "I was never asked by any attorneys if Virginia Roberts came to the house when Mr. Dershowitz was there. If I had been asked, I would have answered that I never saw Virginia Roberts at the house when Mr. Dershowitz was there."

Ex. Q at ¶ 19 (Affidavit of Juan P. Alessi, January 13, 2016). Indeed, in his affidavit, Mr. Alessi goes on to say, "I never saw Mr. Dershowitz do anything improper or be present while anyone else was being improper." *Id*.

38. Juan Alessi's affidavit also confirms that Mr. Cassell and Edwards failed to interview him as part of their supposed "investigation" into Ms. Giuffre's claims, and consequently grossly misrepresented the statements he made in his deposition:

> The following statement made by Virginia Roberts's attorneys and their own attorney in a filing on December 4, 2015 is not accurate and is a misrepresentation of what I said in my deposition: "Alessi was able to identify a photograph of Ms. Giuffre as someone who was at the mansion as [sic] the same time as Dershowitz.
>
> As far as I can recall, since I gave my deposition in 2009, I have never been asked by Brad Edwards or Paul Cassell about my knowledge regarding Virginia Roberts or Alan Dershowitz or about my 2009 deposition testimony.

Id. at ¶¶ 20-21.

39. In an effort to "place" me in proximity to "sex toys" at the Palm Beach mansion, Mr. Cassell and Mr. Edwards also misrepresented other aspects of Juan Alessi's testimony. For example, in an affidavit, Mr. Alessi states that:

> The following statement made by Virginia Roberts's attorneys in a filing on January 21, 2015 is not accurate and is a misrepresentation of what I said in my deposition: "the private, upstairs room where Dershowitz got his 'massages' was one that contained a lot of vibrators—Maxwell had a 'laundry basket… full of those toys' in that room.""
> . . . .
> I did not state or imply that vibrators or sex toys were found after massages in other rooms used by guests because that was not the case. Guests having massages did not have massages in Mr. Epstein's private bedroom suite. This area was private and off-limits to guests, which I explained to the lawyers during my deposition.

Id. at ¶¶ 9-10.

40. Juan Alessi undermines numerous other elements of Ms. Giuffre's account as well. For example, Mr. Alessi did not see "any photographs of Virginia Roberts in Mr. Epstein's house"—partially naked or otherwise. *Id.* at ¶ 17. And, contrary to Ms. Giuffre's description, massages were not simply a code word for sexual encounters. Many guests at the Epstein mansion received massages from professional masseuses—and all of whom were, as Mr. Alessi testified, "overage" to "maybe mid-forties." *Id.* at ¶ 8. Indeed, despite working for Jeffrey Epstein for many years, Mr. Alessi was "unaware of any masseuses being under the age of 18." *Id.* This statement in itself completely undermines Mr. Cassell's underlying assumption—that I, at the very least, should have known of Mr. Epstein's alleged wrongdoing by virtue of visiting his Florida home on several occasions.

41. To be clear, the only massage I recall receiving at the Epstein home was conducted by a professional masseuse—a woman in her in her 30s or 40s. This occurred well outside the timeframe when Ms. Giuffre was associated with Mr. Epstein and I acknowledged this in numerous interviews shortly after Ms. Giuffre accused me.[6] In addition, there were never

[6] *See*, for example: Bob Norman, "Alan Dershowitz: 'Sex Slave' Accuser is Serial Liar, Prostitute," Local 10 News, 22 January 2015, *available at* http://www.local10.com/news/alan-dershowitz-sex-slave-accuser-is-serial-liar-

any sex toys in any room I ever stayed in, nor were there any visible pictures of naked young women. My children and grandchildren stayed in the rooms in question at Mr. Epstein's home during Christmas of 2005. I would never have allowed my family to stay in a home with such items, nor would I have stayed in such a home.

42. Mr. Cassell also seeks to rely upon the deposition of Alfredo Rodriguez, an employee of Jeffrey Epstein for the proposition that I was present in Mr. Epstein's home in 2005 at the same time as some young women—including Ms. Kellen and Ms. Marcinkova[7]—and "local girls" who gave massages. *See* Cassell Decl., ¶ 21(l). But Mr. Rodriguez was clear that he did not know whether I received a massage, and did not know if I was aware that there were young girls present in the house:

> "Q: Okay. When Alan Dershowitz was at the house I understood you to say that these local Palm Beach girls would come over to the house while he was there but you're not sure if he had a massage from any of those girls.
>
> A: Exactly.
>
> Q: And what would he do while those girls were at the house?
>
> . . . .
>
> A: He will read a book with a glass of wine by the pool, stay inside.
>
> Q: Did he ever talk to any of the girls?
>
> A: I don't know, sir.
>
> Q: Certainly he knew that they were there?
>
> . . . .

---

prostitute. I never denied having one professional massage. I did truthfully state that it was a lie to claim that I had sexual massages in a room full of sex toys.

[7] Ms. Kellen was in her late 20s and to my knowledge, was a legitimate employee of Mr. Epstein. Ms. Marcinkova was, to my knowledge, an adult friend of Mr. Epstein.

A: I don't know sir."

Ex. U at 426-27.

43. Mr. Rodriguez's testimony contained nothing inculpatory of me and, inasmuch as it concerned the period 2005 and later, it has absolutely no bearing on Ms. Giuffre's allegations about me, since Ms. Giuffre left Mr. Epstein's orbit in 2002.

44. Mr. Cassell also refers to Mr. Epstein's "little black book" of contacts and phone numbers, which Alfredo Rodriguez had stolen. Mr. Cassell claims that "[Rodriguez] appeared to have circled the name of Alan Dershowitz as someone who had information about Epstein['s] criminal activities." Cassell Decl., ¶ 21(m). Of course, what Mr. Rodriguez did or didn't write or circle in Mr. Epstein's address book is probative of nothing. In fact, however, the address book contained the circled names of *many* celebrities and other individuals, including Donald Trump, Flavio Briatore, and Courtney Love, among others.[8] Even the late Elie Wiesel's name and redacted phone number was in the "black book." And yet, Mr. Cassell seems to have falsely assumed that, among those individuals whose names were in the book circled, only I was a possible accomplice of Mr. Epstein:

> Q: Donald Trump was a friend of Jeffrey Epstein; is that not correct?
>
> A: I really don't -- my understanding is yes, but I -- I don't have a lot of information about Trump.
>
> Q: It's true also, is it not, that Mr. Trump was a frequent visitor to Mr. Epstein's residence?
>
> A: I -- I know that he visited frequent. I -- I don't have a lot of information about Trump.
>
> Q: And his name is circled in this book; is it not?

[8] Including Peter Soros, Joseph and Florina Rueda, Alberto Pinto, Valda Veira Cotrin, Evan Anderson, Michelle Campos, Eric Gany, Cindy Lopez, Timothy Newcombe, Douglas Schoettle, Caroline Stark, Larry Visoski, Tom and Pat Sawyers, Lynn Fontanella, Christophe Gaie, Bill Maronet, Mike Pazulo, Alan Stopek, and Bruce King.

> A: I believe it is.
>
> Q: Based on him -- assuming he's a frequent visitor to Mr. Epstein's home, and that he's a friend of Mr. Epstein's, and that his name is circled in this book, do you infer that he was engaged in criminal sexual abuse of minors?
>
> A: No.

Ex. O at 233.

The Allegation That I Engaged in a "Pattern of Deception"

45. The Cassell Declaration asserts that "[a]ttempts had been made to depose Dershowitz or otherwise obtain information from him about his knowledge of Epstein's sexual abuse in 2009, 2011, 2013, and January 2015, and he had avoided all those efforts." Cassell Decl., ¶ 21(o). Mr. Cassell also claims that I did not make Epstein "available to answer questions about sex abuse of underage girls." *Id.* ¶ 21(p). Mr. Cassell describes this as "a pattern of deception" that was "consistent with a pattern of other persons involved in Epstein's international sex trafficking organization." *Id.* ¶ 21(p)-(q). Again, these assertions are false or misleading, and absurd in equal measure.

46. During my representation of Jeffrey Epstein, I was a member of an extensive legal team, which collectively decided how Epstein should interact with law enforcement during their investigation. Together with other members of the legal team, I, among others, communicated with the Palm Beach State Attorney's Office—including scheduling meetings to depose Epstein—at the behest of the client. This behavior does not constitute a "pattern of deception;" instead, it reflects a legal strategy, devised by a team of defense lawyers aiming to secure the best possible result for their client.

47. Moreover, Mr. Cassell's claim that I dodged a subpoena or systematically avoided providing information to his and Mr. Edwards' lawyer, Jack Scarola, is demonstrably false.

48. Although a legal assistant for Bradley Edwards, one of Ms. Giuffre's lawyers, once claimed that I was served with a subpoena in 2009, this was not true; I was never served with a subpoena, and contemporaneous documentary evidence proves as much.

49. In August 2011, another attorney representing Ms. Giuffre, Jack Scarola, called me to ask that I provide information on Mr. Epstein's alleged abuse of minors, and particularly young women. I responded on August 15th, in writing that, if Mr. Scarola were to provide me with a more detailed request, I would try to provide any relevant non-privileged information. *See* Ex. S at SCAROLFA 016566 (Scarola Correspondence, August-September 2011). Mr. Scarola wrote back to me on August 23rd, stating that "We . . . have reason to believe that you have personally observed Jeffrey Epstein in the presence of underage females, and we would like the opportunity to question you under oath about those observations." *Id* at SCAROLA 016567. I replied that "If you in fact have such testimony it is perjurious. I have never seen Epstein in the presence of an underage female." *Id.* at SCAROLA 016570.

50. Despite this unambiguous answer, Mr. Edwards and Mr. Scarola attempted to subpoena me in 2013. This time, they left a subpoena with an assistant to another faculty member at Harvard Law School—an improper form of service. I again made it clear to them that I had no relevant non-privileged information to provide, and that I had been instructed by my client not to volunteer any information. There was no follow up by Mr. Scarola and no attempt to serve me properly.

51. At no point did Mr. Edwards, Mr. Scarola, or any of their associates tell me that Ms. Giuffre had accused me of sexual abuse, because, at that point, she had not. Had I been accused at that time, I would have provided records demonstrating the falsity of any such allegations.

Other Facts That Show that Ms. Giuffre Lacks Credibility

52. Inasmuch as Mr. Cassell is inviting this Court to accept Virginia Roberts Giuffre's assertions about me, other examples of her lack of credibility are relevant.

53. In the first place, Ms. Giuffre has been demonstrated to have made up wildly implausible tales for financial gain. In 2011, for example, Ms. Giuffre was interviewed by Sharon Churcher at *The Daily Mail*, and provided detailed accounts of an alleged encounter with Bill Clinton on Jeffrey Epstein's private island in the Caribbean. In exchange for that interview, Ms. Giuffre was paid $160,000. Ms. Giuffre's account of meeting Clinton is both completely unbelievable on its face, and demonstrably untrue. For example, she claims that: "Ghislaine Maxwell went to pick up Bill [Clinton] in a huge black helicopter that Jeffrey had bought her. She'd always wanted to fly and Jeffrey paid for her to take lessons, and I remember she was very excited because she got her license around the first year we met. I used to get frightened flying with her but Bill had the Secret Service with him and I remember him talking about what a good job she did." Ex. T at 2-3 (Daily Mail Article, March 5, 2011). Ms. Giuffre then described, in detail, a dinner with President Clinton, Jeffrey Epstein and others on Little St. James Island, which Mr. Epstein owned.[9]

[9] Further demonstrating her ability to weave a vivid, yet utterly false tale, Ms. Giuffre also recounts that: "We all dined together that night. Jeffrey was at the head of the table. Bill was at his left. I sat across from him. Emmy Tayler, Ghislaine's blonde British assistant sat at my right. Ghislaine was at Bill's left and at the left of Ghislaine there were two olive-skinned brunettes who'd flown in with us from New York…. Maybe Jeffrey thought they would entertain Bill, but I saw no evidence that he was interested in them. He and Jeffrey and Ghislaine seemed to have a very good relationship. Bill was very funny." Ex. T at 3-4.

54. Ms. Giuffre' entire account is fabricated out of whole cloth: President Clinton was never on the island during the relevant period. A FOIA request submitted by former FBI Director Louis Freeh for "all shift logs, travel records, itineraries, reports, and other records for USSS personnel travelling with former President Bill Clinton to Little St. James Island and the US Virgin Islands" revealed that "Bill Clinton did not in fact travel to, nor was he present on, Little St. James Island between January 1, 2001, and January 1, 2003." *See* Dershowitz Decl., Ex. I. Moreover, the notion that the Secret Service would allow a former president to be flown by an amateur pilot is ridiculous on its face.

55. In that same Daily Mail article, Ms. Giuffre claimed "that Mr. Clinton's vice-president Al Gore and his wife, Tipper, were also guests of Epstein on his island" on a different occasion. Ex. T at 4. Ms. Giuffre purported to provide specific details of this encounter: "I had no clue that anything was up. The Gores seemed like a beautiful couple when I met them. All I knew was that Mr. Gore was a friend of Jeffrey's and Ghislaine's. Jeffrey didn't ask me to give him a massage. There might have been a couple of other girls there on that trip but I could never have imagined this guy would do anything wrong. I was planning to vote for him when I turned 18. I thought he was awesome." *Id.* at p. 5.

56. This story too was made up – a fiction peddled for money. By all available accounts, Mr. Gore and his wife *never set foot* on Mr. Epstein's private island, nor even met Mr. Epstein. Ms. Giuffre' lawyers, who included David Boies, could easily have ascertained as much. Vice President Gore had been Mr. Boies's client and Mr. Boies could have simply asked him whether he had ever visited Mr. Epstein's island in the Caribbean. Had he done so, Mr. Boies would have learned that Ms. Giuffre's account was false.

57. Critically, Ms. Giuffre also lied about her age—specifically, the age she was during the time period in which she was associated with Jeffrey Epstein. Contrary to previous statements that she was fifteen when she was trafficked by Mr. Epstein, Ms. Giuffre could not have even have met him until 2000, the year she turned seventeen. There is documentary evidence, recently discovered and undisputed, that Ms. Giuffre' father—who arranged her employment at The Mar-A-Lago Club in Palm Beach—did not begin working there until April 11, 2000. Ms. Giuffre has repeatedly stated that she first met Ghislaine Maxwell at the Mar-A-Lago where she had a summer job as a changing room assistant—indeed it is one of the few aspects of her story that has remained consistent from the outset.[10] Ms. Giuffre turned seventeen in the summer of 2000. By the time Mr. Epstein is alleged to have begun trafficking her to his acquaintances—six to nine months *after* their first encounter,[11] or in at least one telling *two years* later,[12] Ms. Giuffre may have been over eighteen.

58. The issue of Ms. Giuffre's age at the time of certain events is important as a legal matter—and her lack of credibility about it is telling. The age of consent in New York is seventeen. As to the other locations with varying ages of consent—in Florida it is eighteen—it is impossible to know whether Ms. Giuffre is claiming to have been a minor because she has never specified—presumably even to her own lawyers—*when* the alleged acts were supposed to have occurred. She has not even provided *the year* in which she claims specific events occurred. So it cannot be presumed—by her lawyers or by anyone else—that she was a minor when she

[10] *See* for example, Zachary Davies Boren, *Virginia Roberts: Who is the woman at the centre of the Prince Andrew sex allegations?*, The Independent (Jan. 5, 2015), *available at* http://www.independent.co.uk/news/uk/home-news/virginia-roberts-what-do-we-know-about-the-woman-at-the-centre-of-the-prince-andrew-sex-allegations-9958539.html.

[11] *See* for example, Ex. V at 10 (Telephone Interview with Virginia Roberts, April 7, 2011).

[12] *See* Sharon Churcher, *Prince Andrew and the 17-year-old Girl His Sex Offender Friend Flew to Britain to Meet Him*, DailyMail.com (Mar. 2, 2011) ("'After about two years, he started to ask me to 'entertain' his friends.'"). *Available at* http://www.dailymail.co.uk/news/article-1361039/Prince-Andrew-girl-17-sex-offender-friend-flew-Britain-meet-him.html?ito=feeds-newsxml.

claims that Mr. Epstein trafficked her. It is much more likely, in light of when she actually met Jeffrey Epstein and when she says she began to have sex with his acquaintances, that she was *not* a minor when she claimed to have had sex with any such people.

59. Moreover, Ms. Giuffre has perjured herself by claiming that she was 15 when she met Ms. Maxwell and Mr. Epstein, most notably by submitting an untruthful declaration in the *Edwards* defamation lawsuit. On November 20, 2015 Ms. Giuffre executed an affidavit in which she alleged that: "In approximately 1999, when I was 15 years old, I met Ghislaine Maxwell . . . Soon after that I went to Epstein's home in Palm Beach on El Brillo Way. From the first time I was taken to Epstein's mansion that day, his motivations and actions were sexual, as were Maxwell's…. Epstein and Maxwell forced me into sexual activity with Epstein. I was 15 years old at the time." Ex. W at ¶ 4-5 (Declaration of Virginia Roberts, January 21, 2015).

60. She also asserted that when she "was approximately 15 or 16 years old" when Mr. Epstein and Ms. Maxwell began trafficking her to Epstein's acquaintances. These statements are disproven by documentary evidence, and Ms. Giuffre has herself admitted that they are not true.

Conclusion

61. In his Declaration before this Court, Paul Cassell has provided an accounting of the "evidence" that he claims supports the truth of Virginia Roberts Giuffre's accusations against me. It is a woefully inadequate presentation, as the preceding paragraphs demonstrate. The irony, of course, is that Mr. Cassell's accounting is in service to his and his client's goal of keeping sealed far more compelling evidence—namely, the Requested Documents—that undercuts the accusations against me and shows them to be a recent

fabrication. This is part of an overarching plan by Ms. Giuffre's lawyers to cherry-pick the evidence they want to *publically* reveal while using this Court's powers to suppress evidence damaging to them. There is a further irony as well, which is that the entire basis of Ms. Giuffre's participation in the CVRA Action was a complaint that the Government unlawfully kept secret the details of her alleged victimization at Mr. Epstein's hands. Yet it is now Ms. Giuffre and her lawyers who are seeking to keep secret the whole truth about Ms. Giuffre's story.[13]

62. I believe that the law and basic notion of fairness should permit me to prove the whole truth, namely, that Ms. Giuffre never accused me of misconduct until 2014, and that her belated complaint against me is, as I have always said, a fabrication from start to finish. The Requested Documents help prove those critical points. This Court ought not allow itself to be a tool of secrecy used by Ms. Giuffre and her lawyers to keep the whole truth from coming out.

[13] As described in my opening Declaration, Ms. Giuffre's legal assault on me, conducted through her lawyers at Boies Schiller & Flexner LLP ("BSF"), continues in the form of a motion for sanctions in Florida state court. There, she claims that I violated a court order in the *Edwards* defamation lawsuit by testifying truthfully in a deposition about discussions that I had had with David Boies. Prior to my testimony, my lawyers submitted an affidavit from me to the Florida court describing these discussions, and the Florida judge sealed the affidavit. He did not direct that I refrain from testifying about the matter, nor did he sanction me for disclosing the discussion in an affidavit, as Ms. Giuffre's lawyers requested. When asked whether he was making a ruling on the BSF motion for sanctions regarding the content of the affidavit, Judge Lynch replied "No. I'm just sealing these [the affidavit] because I think they should be sealed." Ex. X at 24 (Transcript of Emergency Motion to Seal, December 18, 2015). Thus, contrary to the later motion for sanctions, there was no "gag order" placed in me when the affidavit was submitted, nor did I violate any court order by truthfully answering a question put to me by the opposing lawyer and offering to seal my answer. The BSF motion for sanctions was subsequently dismissed for lack of jurisdiction and standing, and is now being appealed by Ms. Giuffre.

Dated: September 14, 2016
New York, New York

ALAN M. DERSHOWITZ

EXHIBIT C

From: jeffrey E. <jeevacation@gmail.com>
Sent: Sunday, January 25, 2015 4:41 AM
To: G Maxwell
Subject: Re:

ok, with me, You have done nothing wrong and i woudl urge you to start acting like it. go outside, head high, not as an esacping convict. go to parties. deal with it. . i had lisa svenson the swedish ocean ambassador yesteady she said no one on her ocean panel takes this stuff seriously and you would be welcoe to the ocean conferenec water conference etc.

On Sat, Jan 24, 2015 at 1:22 PM, G Maxwell <GMax1@ellmax.com> wrote:
I would appreciate it if [redacted] would come out and say she was your g'friend - I think she was from end 99 to 2002

THE TERRAMAR PROJECT
FACEBOOK
TWITTER
G+
PINTEREST
INSTAGRAM
PLEDGE
THE DAILY CATCH

--

EXHIBIT E

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN
_____/

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

(1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;

(2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);

(3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;

(4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

(5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;

2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

   (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

   (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.

3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.

4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.

5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.

6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.

8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.

9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.

10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.

11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.

13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to Sarah Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova. Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

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By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 9/24/07

_____
JEFFREY EPSTEIN

Dated: _____

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

_____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

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COUNSEL TO JEFFREY EPSTEIN

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UNITED STATES ATTORNEY

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A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

----------x

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

----------x

June 21, 2016
9:17 a.m.

C O N F I D E N T I A L

Deposition of JOSEPH RECAREY, pursuant to notice, taken by Plaintiff, at the offices of Boies Schiller & Flexner, 401 Las Olas Boulevard, Fort Lauderdale, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

BY MR. PAGLIUCA:

Q. Then there's a category, victim information, and then we have listed, I believe, a total of 17 individuals that the Palm Beach Police Department incident report lists as alleged victims in this case, correct?

A. Correct.

Q. And are you aware as to whether or not that list was supplemented after July 25th, 2006, in the investigative incident report?

A. I'm not sure if it was updated or not.

MR. PAGLIUCA: I don't know if we want to mark this or not. I can hand you what I believe to be a more recent, or I think you actually brought one with you --

THE WITNESS: I did.

MS. SCHULTZ: If you're talking about the document that he brought with him, I had it Bates labeled.

MR. PAGLIUCA: We can show him that. I think I have the same document here. And we can -- I guess we'll mark that as 11.

JOSEPH RECAREY - CONFIDENTIAL

(The referred-to document was marked by the court reporter for Identification as Deposition Exhibit 11.)

BY MR. PAGLIUCA:

Q. If you look at the -- is that what you're looking at?

MS. SCHULTZ: That's mine. I just wanted to make sure it's the same.

BY MR. PAGLIUCA:

Q. If you go into the third -- I think it's the third page of that document, we then end with VI 17 Juno.

Do you see that?

A. Yes.

Q. So that would tell me that there were no individuals listed as additional victims as of the conclusion of your investigation in this case; is that correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: That's correct.

BY MR. PAGLIUCA:

Q. Okay. So let's stick with Exhibit 1, and let's go to Narrative No. 1, which is on page 11 of

Exhibit 1. Are you with me?

A. Uh-huh.

Q. Okay. Again, this was information that was obtained by Detective Pagan, correct?

A. Correct.

Q. And it's true, is it not, that this alleged victim never claimed to have been recruited by Ghislaine Maxwell; true?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: Correct.

BY MR. PAGLIUCA:

Q. And this individual, alleged victim No. 1, never identified Ghislaine Maxwell as being at Mr. Epstein's house when she was there, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I don't believe so.

BY MR. PAGLIUCA:

Q. You don't believe so --

A. I don't believe so.

Q. That she ever identified Ghislaine Maxwell as being in the house?

A. Right.

Q. Okay. She never -- this individual, victim No. 1, never claimed that Ghislaine Maxwell paid her any money, correct?

A. Correct.

Q. And this individual No. 1 never claimed that Ms. Maxwell instructed her what to wear, correct?

A. Right.

Q. This individual never claimed that Ghislaine Maxwell told her how to act, correct?

A. Correct.

Q. This individual never claimed to have met Ghislaine Maxwell ever, correct?

A. I don't believe so, no.

Q. This individual never claimed to even have spoken to Ghislaine Maxwell ever, correct?

A. I don't believe so, no.

Q. And when you say "I don't believe so, no," that means my statement to you is correct; is that right?

MS. SCHULTZ: Object to form, foundation.

THE WITNESS: Well, you're saying "ever." I don't know if she's ever, ever spoken to --

BY MR. PAGLIUCA:

Q. To Detective Pagan.

A. Right. To my knowledge, I don't know, because Detective Pagan is the one who actually interviewed her. So I don't know to the answer of "ever." So not to my knowledge.

Q. Certainly, nothing in Exhibit 1, Narrative 1 reflects that this individual ever met or talked to or spoke to Ghislaine Maxwell, right?

A. Right. Not to my knowledge.

Q. And, indeed, you would agree with me that if this individual claimed that Ms. Maxwell had something to do with the events listed in Narrative 1, you would have folded up on it, as the investigating detective, right?

MS. SCHULTZ: Object to the form.

THE WITNESS: Either myself or Detective Pagan would have.

BY MR. PAGLIUCA:

Q. Sure. And when you got the case six months later, if there hadn't been follow-up, you would have followed up on it, right?

MS. SCHULTZ: Object to form.

THE WITNESS: Correct.

A. Yes.

Q. And then you asked various individuals who was there when you went to Mr. Epstein's house, right?

A. Correct.

Q. And you then, to the best of your ability, recorded those answers, I take it, as to who was there, right?

A. Yes.

Q. And with regard to [redacted] she never said anything about Ghislaine Maxwell being at Mr. Epstein's house, did she?

MS. SCHULTZ: Object to form and foundation.

BY MR. PAGLIUCA:

Q. To you?

A. I don't believe she did.

Q. Okay. And if she did, it's likely that you would have recorded it, correct?

A. Correct, and it would be on the -- it would be on the tape.

Q. Right.

She never claimed, [redacted] that Ms. Maxwell paid her, right?

JOSEPH RECAREY - CONFIDENTIAL

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: Correct.

BY MR. PAGLIUCA:

Q. She never claimed that -- [redacted] never claimed that Ms. Maxwell instructed her about what to wear, correct?

MS. SCHULTZ: Object to the form.

THE WITNESS: Correct.

BY MR. PAGLIUCA:

Q. [redacted] never claimed that Ms. Maxwell told her how to act at Mr. Epstein's house, correct?

MS. SCHULTZ: Object to form.

THE WITNESS: Correct.

BY MR. PAGLIUCA:

Q. [redacted] never claimed to have met Ghislaine Maxwell anywhere, correct?

MS. SCHULTZ: Object to form.

THE WITNESS: I don't believe so, no.

BY MR. PAGLIUCA:

Q. Okay. If we go on to individual alleged victim No. 3, AY, the same question: AY never identified Ms. Maxwell as someone she knew or interacted with in any fashion, correct?

JOSEPH RECAREY - CONFIDENTIAL

MS. SCHULTZ: Object to form.

THE WITNESS: No.

BY MR. PAGLIUCA:

Q. No, she did not?

A. No, she did not.

Q. Okay. The same with individual No. 4, alleged victim FP: Again, FP never claimed to have met with Ms. Maxwell, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I don't believe so, no.

BY MR. PAGLIUCA:

Q. Okay. And FP never identified Ms. Maxwell as someone being at Mr. Epstein's house, correct?

MS. SCHULTZ: Object to form and foundation.

BY MR. PAGLIUCA:

Q. And if you need to look at your report --

A. No, I don't -- I don't believe so. The only people that recalled Ghislaine at the house was --

Q. Sjoberg?

A. Johanna Sjoberg.

Q. Who was over the age of 18, correct?

JOSEPH RECAREY - CONFIDENTIAL

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: And Venero, Christina Venero.

BY MR. PAGLIUCA:

Q. Who is an adult as well?

MS. O'CONNOR: Object to form.

THE WITNESS: Yes.

BY MR. PAGLIUCA:

Q. So out of your entire report, the only two people who ever said anything about Ms. Maxwell were Ms. Sjoberg, who I believe was 23 when you interviewed her?

A. Right, but she was --

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: She was -- she had worked there for quite some time, so you would have to back up, I think, a year or two.

BY MR. PAGLIUCA:

Q. She was an adult when she worked there?

A. Right. She was over the age of 18, right, let's put it that way.

Q. And she was not listed by you as a victim

as part of this case, right?

A. Correct, because it was between two consenting adults.

Q. Exactly.

And so that's Ms. Sjoberg, and then the other individual, I think you said Bolero; is that right?

A. Venero, Christina Venero. She's a --

Q. Adult masseuse, correct?

A. Yes. I remember she had lots of tattoos.

Q. Tatts, right.

But the 17 individuals that you listed in Exhibit 1, none of those individuals ever said the word -- the words "Ghislaine Maxwell" during the course of this investigation to you, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I don't believe so. It would be on the tapes if they did.

BY MR. PAGLIUCA:

Q. Well, or it would be in your report, right?

MS. SCHULTZ: Object to form and foundation.

A. Correct.

Q. And then Mr. Epstein is arrested and ends up pleading guilty and all of that, right?

MS. SCHULTZ: Object to form.

THE WITNESS: I think there was a non-prosecution agreement prepared between the Feds and some kind of agreement was made. But, yes, he did end up pleading guilty.

BY MR. PAGLIUCA:

Q. All right.

Now, based on the questions that were asked of you in the grand jury, it's fair to say that Ms. Maxwell was not a target of the grand jury's investigation, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: Not based on the questions that the state was asking me, no, the state wasn't...

BY MR. PAGLIUCA:

Q. In fact, it's fair to say that you never said Ms. Maxwell's name in the grand jury, right?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: No. Based on the questions that the state was asking, no.

BY MR. PAGLIUCA:

Q. Were you aware of who was being issued subpoenas by the grand jury?

A. No. But it wasn't the actual subpoena from the grand jury; it came from the State Attorney's Office.

Q. At the direction of the grand jury, though, right?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I don't know. Again, I don't know.

BY MR. PAGLIUCA:

Q. I would like to talk a little bit about the surveillance that you initiated at Mr. Epstein's house, okay?

Can you tell me when the surveillance began?

A. It would have started under Detective Pagan and gone through --

Q. The entire investigation?

A. Pretty much trash pulls. We stopped the

Q. And so these were video cameras?

A. Correct.

Q. And so whoever was coming and going, whenever -- an officer saw somebody coming or going, they would videotape that person; is that correct?

A. Or they would just leave the video rolling, time lapse.

Q. And did you have the opportunity to observe any of that video?

A. I did observe a couple, but the person who actually set it up would review it and then submit a supplement to the report.

Q. Okay. It's true that none of the video of the surveillance led to the identification of Ghislaine Maxwell as coming or leaving the house during the time of surveillance, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I don't know. I didn't see all of the video, so I can't -- I can't attest to that.

BY MR. PAGLIUCA:

Q. Okay. Did anybody report to you that Ms. Maxwell was seen coming or going?

MS. SCHULTZ: Object to form, foundation.

THE WITNESS: I don't recall.

BY MR. PAGLIUCA:

Q. If someone had reported to you that Ms. Maxwell was seen coming or going, you would have recorded it in your Palm Beach Police Department incident report, Exhibit No. 1, correct?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I would have told the officer who was conducting the surveillance or reviewing the video to document it in the supplements.

BY MR. PAGLIUCA:

Q. And there is no documentation in the supplement of Ms. Maxwell either coming or going from Mr. Epstein's house during this time frame, correct?

MS. SCHULTZ: Object to the form.

THE WITNESS: I don't believe so. I don't -- I don't -- I don't believe so.

BY MR. PAGLIUCA:

Q. And, again, so we're on the same page, when you say "I don't believe so," I interpret that

as her name is not in here as someone who was incoming or going; am I correct in my interpretation?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: Again, I don't know. I don't believe so.

BY MR. PAGLIUCA:

Q. I'm just trying to understand what "I don't believe so" means, okay?

A. I don't -- I don't believe it's in the report, no.

Q. Okay. "I don't believe it's in the report" that she was ever seen coming or going, right?

A. Right, that's what I'm saying.

Q. All right. We're on the same page.

The trash pulls, do you recall how many trash pulls were done?

A. There were numerous trash pulls done. There was trash pulls down under Detective Pagan and under my request.

Q. As I understand the trash pull protocol, you or someone at your direction or Detective

A. I don't believe clothing was seized.

Q. To your knowledge, did you seize any property belonging to Ghislaine Maxwell from the home?

MS. SCHULTZ: Object to form and foundation.

THE WITNESS: I'm not sure. Not to my knowledge.

BY MS. SCHULTZ:

Q. Okay. No one ever came to you and said, Could you please return these items to Ms. Maxwell, correct?

MS. SCHULTZ: Object to form.

THE WITNESS: No.

BY MS. SCHULTZ:

Q. All right.

You did that with Janush?

A. Yes, he had photos and --

Q. But nothing like that ever happened with Ms. Maxwell, correct?

MS. SCHULTZ: Object to form.

THE WITNESS: No.

BY MS. SCHULTZ:

Q. Ms. Maxwell was not present when you

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

PLAINTIFF'S MOTION TO REOPEN DEFENDANT'S DEPOSITION BASED ON DEFENDANT'S LATE PRODUCTION OF NEW, KEY DOCUMENTS

Plaintiff, Virginia Giuffre, by and through her undersigned counsel, files this Motion to Reopen Defendant's Deposition Based on Defendant's Production of New, Key Documents because Defendant produced documents subsequent to her deposition about which she should answer questions. The Court has already ruled that reopening a party deposition is appropriate where important documents are produced after the deposition is completed. Accordingly, the Court should grant Ms. Giuffre's request to reopen Defendant's deposition to answer questions relating to her lately produced documents.

I. BACKGROUND

The Court will recall Defendant's case-long, unjustified recalcitrance regarding her testimony. She first attempted to avoid her deposition (causing unnecessary motion practice), and, then, she failed to answer questions at her deposition, upon which the Court ordered her to sit for her deposition again. Specifically, Ms. Giuffre started her quest to obtain Defendant's deposition back on February 2, 2016, by serving a Notice of Deposition. Defendant filed a

Motion for Protective Order trying to avoid her deposition. After a hearing on the issue, the Court directed Maxwell to sit for her deposition on April 22, 2016. During her deposition Defendant refused to answer the majority of the questions asked or stated that she had no memory of any of the events. As a result, Ms. Giuffre was forced to file a Motion to Compel Defendant to Answer Deposition Questions Filed under Seal (DE 143). On June 20, 2016, this Court granted Ms. Giuffre's Motion and directed Defendant to sit for a second deposition to answer the questions she originally failed to answer. (June 20, 2016 Sealed Order, filed in redacted version DE 264-1).

Yet again at her second deposition, she continued to refuse to answer key questions. As a result, on July 29, 2016, Ms. Giuffre was forced to file a Motion to Enforce the Court's Order and Direct Defendant to Answer Deposition Questions Filed under Seal. (DE 314/356). That motion is still pending before this Court.

Discovery closed in this case on July 31, 2016. On August 16, 2016, after the close of discovery, and after Defendant's second deposition was taken, Defendant produced two critical documents which were e-mail communications: one between her and her press agent, Ross Gow, and another between her and her former boyfriend, convicted pedophile Jeffrey Epstein. *See* McCawley Decl. at Sealed Composite Exhibit 1, August 16, 2016, email from Laura Menninger; November 10, 2015, Email from Ross Gow to Defendant, GM_01141-01142; Email between Defendant and Epstein, GM_01143-1144.

It is important for Ms. Giuffre to ask questions about these newly-produced communications with Gow and Epstein. In the former, Gow asks Defendant, "Please advise how you wish to respond [to a press inquiry regarding Ms. Giuffre]." As the Court will recall, Ross Gow is Defendant's English press agent who shares an attorney with Defendant. The history of

Ms. Giuffre's multiple and expensive attempts to serve Mr. Gow with a Rule 45 subpoena through the Hague Convention and various other means (Defendant's attorney refused to accept service) recently culminated in an English Court commanding Gow to sit for his deposition by November 1, 2016.

Accordingly, a follow up deposition of Defendant is critical. It is necessary both to ensure that she answers the questions she refused to answer, (as set forth in Plaintiff's Motion to Direct Defendant to Answer Deposition Questions (DE 314/356)), and to ensure that Ms. Giuffre can ask Defendant questions about the critical and late produced e-mail communications with her press agent, Ross Gow, and with her former boyfriend, convicted pedophile Jeffrey Epstein.

Indeed, Defendant cannot credibly oppose Ms. Giuffre's request because Defendant herself previously sought and received a deposition based on newly produced documents. Defendant previously argued before this Court that Ms. Giuffre's deposition should be reopened, in part, because Ms. Giuffre obtained and produced certain documents that Defendant wanted to ask her about ***after*** Ms. Giuffre's deposition was taken. Specifically, Defendant's motion stated "Plaintiff's production of key documents after her deposition necessitates additional examination." *See* (DE 230) at 3. Defendant's brief continued: "All of the new information that has come to light . . . justifies the reopening of Plaintiff's deposition." *Id*. at 5-6.

The Court granted Defendant's motion in a sealed Order that stated: "The deposition of the Plaintiff was held on May 3, 2016, and thereafter the Plaintiff produced additional documents and made supplemental responses . . . The Plaintiff may be questioned about any documents produced subsequent to the May 3 deposition relating to employment and education." *See* Sealed August 30, 2016 Order. As the Court has already ruled that reopening a deposition is appropriate

when where important documents are produced after the deposition is completed, the same relief is appropriate for Ms. Giuffre upon this motion.

II. ARGUMENT

The same standard set forth in the Court's August 30, 2016, Order applies to Defendant's post-deposition production of key documents. Defendant's late production of two key documents similarly "necessitates" and "justifies" the reopening of Defendant's deposition for questioning upon them. Therefore, Ms. Giuffre should receive the same relief from the Court that Defendant obtained: the reopening of Defendant's deposition to answer questions about these key documents. *See Wesley v. Muhammad*, 2009 WL 1490607, at *5 (S.D.N.Y. 2009) ("while defendants' delay in producing documents may have interfered with the completeness of depositions, plaintiff will be free to reopen any depositions for which he deems the newly produced documents to be a relevant source of questions"); *Ganci v. U.S. Limousine Serv., Ltd.*, 2011 WL 4407461 at *2 (E.D.N.Y. Sept. 21, 2011) ("Courts will typically reopen a deposition where there is new information on which a witness should be questioned").

Moreover, it was after Defendant's deposition was complete, ***and after*** the briefing to reopen her deposition (on other grounds) was complete, and after discovery closed, that Defendant produced these key documents. Ms. Giuffre should be allowed to ask Defendant questions concerning them.

A. The Gow Email

These documents are of particular importance because one is an email communication from her agent, Ross Gow to Defendant that took place *after the commencement of this litigation*. It states: "Hi Ghislaine and Philip [sic] Please advise how you wish to respond… Best Ross." GM_01141. Ms. Giuffre did not have the opportunity to question Defendant about the

content of that email, a communication with a key witness, nor did she have the opportunity to use it to cross some of Defendant's evasive answers. Additionally, due to the late production, Ms. Giuffre did not have the opportunity to include these facts in her briefing related to her Motion to Enforce the Court's Order and Direct Defendant to Answer Deposition Questions Filed under Seal (DE 315).

a. Gow Deposition Testimony

Defendant refused to give a straight answer regarding Mr. Gow at her first deposition, making a line of questions related to the lately-produced email communication important and non-redundant. For example, when asked about Mr. Gow, Defendant gave evasive, and non-responsive answers:

> Q. Did you issue a statement to your press agent, Ross Gow in 2015, stating that Virginia Roberts' claims were, quote, obvious lies?
> Q. You can answer.
> A. ***You need to reask me the question***.
> Q. Sure.
> Did you issue a press statement through your press agent, Ross Gow, in January of 2015, stating that Virginia Roberts' claims were, quote, obvious lies?
> A. ***Can you ask it a different way, please?***
> Q. I will ask it again and you can listen carefully. Did you issue a press statement through your press agent, Ross Gow, in January of 2015, where you stated that Virginia Roberts' claims were, quote, obvious lies?
> A. So my lawyer, Philip Barden instructed Ross Gow to issue a statement.

See McCawley Decl. at Sealed Composite Exhibit 2, Maxwell Depo. Tr. at 201:17-202:11.

> Q. Are you saying that it's an obvious lie that Jeffrey Epstein engaged in sexual conduct with Virginia while Virginia was underage?
> ***A. Again, I'm telling you, first of all, it was a statement that was issued by my lawyer and -- through my lawyer to Ross Gow.***
> Q. I understand that. I'm asking you, are you saying that it's an obvious lie that Jeffrey Epstein engaged in sexual conduct with Virginia while Virginia was underage. Is that a lie?
> Q. You can answer.
> ***A. So I cannot testify to what Ross Gow and Philip Barden decided to put*** -- I can testify to what Virginia's obvious lies are as regards to me. I cannot make representations about all the many lies she may or may not have told about Jeffrey.

See McCawley Decl. at Sealed Composite Exhibit 2, Maxwell Depo. Tr. at 202:24-204:6. Ms. Giuffre should not be prejudiced or penalized by Defendant's late production, just as Defendant was not prejudiced nor penalized by Ms. Giuffre late production.

b. Gow Requests for Admission Responses

Importantly, Defendant's evasive responses regarding Ross Gow in her Answers to Ms. Giuffre's Requests for Admission[1] necessitate reopening of questioning regarding the ***newly-produced, post-lawsuit communication with Mr. Gow.*** For example, Defendant stated as follows:

> **1. Admit that Ross Gow was authorized by You or your agents to make statements to the public on your behalf.**
>
> Ms. Maxwell objects to this Request based on the vagueness of the terms "authorized", "statements to the public," and "agents". Without waiver of the foregoing, Ms. Maxwell responds as follows:
>
> Denied in part. Ms. Maxwell admits that she has worked with Mr. Gow on occasion for several years and that she has corresponded with Mr. Gow regarding communications to members of the British press to reserve her right to seek redress for their repetition of defamatory statements about Ms. Maxwell.

See McCawley Decl. at Sealed Exhibit 3, Defendant's Responses to Plaintiff's Requests for Admission at 3. Defendant's evasive response claims the word "authorize" is too "vague," but, at the same time, she appears to deny "inpart" that she authorized Gow to make the defamatory statement. However, the newly-produced communication with Gow shows an ongoing and continuing working relationship, where Gow is seeking Defendant's approval and input on issuing a statement to the press. Ms. Giuffre should be entitled to ask Defendant questions about that communication, wherein Gow asks her: "Please advise how you wish to respond." Notably,

[1] Plaintiff attempted to meet and confer with Defendant in order to obtain a follow up deposition regarding these newly produced documents without Court intervention. Defendant refused stating that she would consider responding to written questions. However, as the Court can see from Defendant's pattern of evasive written responses, an oral deposition is necessary in order to attempt to obtain a complete response.

Defendant did not produce her response to Gow's email. Additionally, since the communication appears to directly contradict her deposition testimony as well as her responses to Requests for Admission, Ms. Giuffre should be entitled to use this post-litigation communication, where Gow asks Defendant, "Please advise how you wish to respond," to cross Defendant on her prior deposition answers. An email in which Gow is actively soliciting instructions for how to make a public response to the media is evidence that Defendant is, in fact, involved in, and consulted about, what her press agent says on her behalf.

B. Communication with Jeffrey Epstein

Similarly, the email with Epstein regarding a reply to "one further allegation," shows that Defendant is active in shaping her public statements regarding Ms. Giuffre, and giving drafts to Epstein for his approval. Accordingly, Defendant was never deposed on (1) why she was seeking Epstein's permission for having Barden make a "reply;" (2) what Epstein's relationship was with Barden; (3) or who drafted the original communication at the bottom of the email, as it does not appear to have been created by either Defendant or Epstein.

C. Ms. Giuffre Did Not Oppose the Relief Sought When Defendant Brought The Same Motion and the Court Ruled that this Relief was Appropriate

As the Court will recall, Ms. Giuffre ***did not oppose*** the relief sought in Defendant's motion to reopen her deposition. ("Ms. Giuffre agrees to reopen the deposition for a limited amount of time, and for discrete lines of questioning." DE 259 at 1). And, Ms. Giuffre specifically agreed to the relief of answering questions about, *inter alia*, documents produced after her deposition: "Ms. Giuffre agrees to reopening the deposition for certain questions related to the following: 1) Any medical care records that were produced subsequent to her deposition." (DE 259 at 12). Accordingly, as Defendant sought and received the same relief upon her motion, which was unopposed by Ms. Giuffre, Defendant can put forth no valid argument against re-

opening Defendant's deposition to ask questions about these newly-produced documents, particularly given the case law that also requires the re-opening of a deposition in these circumstances.

III. CONCLUSION

Therefore, based on the foregoing, Ms. Giuffre respectfully requests that the Court Reopen Defendant's deposition to (1) answer lines of questions discussed in Ms. Giuffre's Motion to Enforce the Court's Order and Direct Defendant to Answer Deposition Questions Filed under Seal (DE 315) which is pending before the Court; and (2) answer questions related to the two key documents produced by Defendant after her deposition.

Dated: October 13, 2016.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley

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[2] This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah for this private representation.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

Laura A. Menninger, Esq.
Jeffrey Pagliuca, Esq.
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/s/ Meredith Schultz
Meredith Schultz

COMPOSITE
EXHIBIT 1
(File Under Seal)

HADDON MORGAN FOREMAN

Haddon, Morgan and Foreman, P.C
Laura A. Menninger

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August 16, 2016

VIA EMAIL

Sigrid S. McCawley
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401 East Las Olas Blvd., Suite 1200
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smccawley@bsfllp.com

Re: *Giuffre v. Maxwell*, Case No. 15-cv-07433-RWS

Dear Sigrid:

Attached please find documents produced pursuant to a subpoena *duces tecum* issued to Mar-a-Lago Club, Inc., on July 14, 2016 which have been Bates numbered Mar-A-Lago 0075-0595.

Also attached are two documents Bates numbered GM_01141-01144. These emails were collected as responsive to Plaintiff's First Request for Production of Documents in February 2016 but through clerical error were not produced at that time or following the Court's *in camera* review in April. A recent review of documents revealed the error.

Sincerely,

HADDON, MORGAN AND FOREMAN, P.C.

/s/ Laura A. Menninger
Laura A. Menninger

From: Ross Gow [redacted]
Sent: 10 November 2015 18:16
To: Gmax; Philip Barden
Subject: Fwd: Inquiry from The New York Times

Hi Ghislaine and Philip
Please advise how you wish to respond...
Best
Ross

---------- Forwarded message ----------
From: Meier, Barry [redacted]
Date: Tuesday, 10 November 2015
Subject: Inquiry from The New York Times
To: [redacted]

Mr. Gow,
Good day. I am a reporter for the Times and it is my understanding that you represent Ghislaine Maxwell.
I am working on an article about the legal fallout from the Jeffrey Epstein case.
I anticipate mentioning the lawsuit filed earlier this year by Virginia Roberts Guiffee against Ms. Maxwell.
How does she respond?
Kindly advise by close of business Thursday, November 12, 2015.
And call me if you have any questions.
Regards,
Barry Meier

--
The New York Times
620 Eighth Avenue
New York, NY 10018
[redacted]

--
Ross Gow
Managing Partner
ACUITY Reputation
23 Berkeley Square
London W1J 6HE

[redacted]

[redacted]

[redacted]

www.acuityreputation.com<http://www.acuityreputation.com/>

From: jeffrey E. <jeevacation@gmail.com>
Sent: Wednesday, April 22, 2015 3:58 PM
To: 'Ghislaine'
Subject: Re: ATTORNEY-CLIENT PRIVILEGE

ok

On Wed, Apr 22, 2015 at 5:46 PM, Ghislaine <Ghislaine@theterramarproject.org> wrote:
I would like Barden to reply to one further allegation in this bullshit

She says Epstein and Maxwell asked her
> to have a child for them and to sign a document signing away
> the rights to the child in the event that she and Epstein
> had a falling out. She says she refused this
> request.·

Regarding further detail of the interview which I have reviewed I would like to add one further point to underscore the lack of probity in Ms Roberts claims

At no point in Ms Maxwell's life has she ever contemplated thought or wanted to bring up someone's child as her own and or ask the mother to sign her rights away to the child. In fact the mere idea of such a suggestion is abhorrent. Further, the idea that Ms Maxwell would contemplate an arrangement with someone who abused drugs and alcohol contemporaneously and who was living with her fiancé beggars belief.
No document has ever been contemplated, created nor lawyer nor other approached to write such a document at anytime

THE TERRAMAR PROJECT
FACEBOOK
TWITTER
G+
PINTEREST
INSTAGRAM
PLEDGE
THE DAILY CATCHthe

From: J Jep
Date: Wednesday, April 22, 2015 at 15:08 PM
To: Gmax
Subject: Fwd: ATTORNEY-CLIENT PRIVILEGE

She says Epstein and Maxwell asked her
> to have a child for them and to sign a document signing away
> the rights to the child in the event that she and Epstein
> had a falling out. She says she refused this
> request.·

--

COMPOSITE
EXHIBIT 2
(File Under Seal)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- x
VIRGINIA L. GIUFFRE,

Plaintiff,

-against-

Case No.:
15-cv-07433-RWS

GHISLAINE MAXWELL,

Defendants.

- x

CONFIDENTIAL

Videotaped deposition of GHISLAINE MAXWELL, taken pursuant to subpoena, was held at the law offices of BOIES SCHILLER & FLEXNER, 575 Lexington Avenue, New York, New York, commencing April 22, 2016, 9:04 a.m., on the above date, before Leslie Fagin, a Court Reporter and Notary Public in the State of New York.

- - -

MAGNA LEGAL SERVICES
1200 Avenue of the Americas
New York, New York 10026

underage?

A. I can only testify to what I saw and what I was present for, so if you are asking me what I saw then I am happy to testify. I cannot testify to what somebody else did or didn't do.

Q. Did you issue a statement to your press agent, Ross Gow in 2015, stating that Virginia Roberts' claims were, quote, obvious lies?

MR. PAGLIUCA: Objection to the form and foundation.

Q. You can answer.

A. You need to reask me the question.

Q. Sure.

Did you issue a press statement through your press agent, Ross Gow, in January of 2015, stating that Virginia Roberts' claims were, quote, obvious lies?

MR. PAGLIUCA: Objection to the form and foundation.

A. Can you ask it a different way, please?

Q. I will ask it again and you can

listen carefully.

Did you issue a press statement through your press agent, Ross Gow, in January of 2015, where you stated that Virginia Roberts' claims were, quote, obvious lies?

MR. PAGLIUCA: Objection to the form and foundation.

A. So my lawyer, Philip Barden instructed Ross Gow to issue a statement.

Q. Today, did you say that Virginia lied about, quote, absolutely everything?

A. I said that there are some things she may not have lied about.

Q. So are you saying it's an obvious lie that Jeffrey Epstein engaged in sexual contact with Virginia while Virginia was underage?

MR. PAGLIUCA: Objection to the form and foundation.

A. Can you ask the question again, please?

Q. Are you saying it's an obvious lie that Jeffrey Epstein engaged in sexual

conduct with Virginia while Virginia was underage?

MR. PAGLIUCA: Objection to the form and foundation.

Q. You can answer.

A. Try again, please.

Q. Are you saying that it's an obvious lie that Jeffrey Epstein engaged in sexual conduct with Virginia while Virginia was underage?

MR. PAGLIUCA: Objection to the form and foundation.

A. Again, I'm telling you, first of all, it was a statement that was issued by my lawyer and -- through my lawyer to Ross Gow.

Q. I understand that. I'm asking you, are you saying that it's an obvious lie that Jeffrey Epstein engaged in sexual conduct with Virginia while Virginia was underage.

Is that a lie?

MR. PAGLIUCA: Objection to the form and foundation.

Q. You can answer.

A. So I cannot testify to what Ross

Gow and Philip Barden decided to put -- I can testify to what Virginia's obvious lies are as regards to me. I cannot make representations about all the many lies she may or may not have told about Jeffrey.

Q. So is Virginia lying when she says, is it an obvious lie when she says that she had sex with Jeffrey Epstein while she was underage?

MR. PAGLIUCA: Objection to the form and foundation.

A. Again, I'm testifying to what I know to be true. I can only testify to all the many lies she told about me. I cannot testify to what lies she told about somebody else. Given she told so many about me, one can probably infer she is lying about everything.

Q. So you think she is lying when she said she had sex with Jeffrey Epstein when she was underage?

MR. PAGLIUCA: Objection to the form and foundation.

A. Again, I can only talk about what I

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

PLAINTIFF'S MOTION TO COMPEL DATA FROM DEFENDANT'S UNDISCLOSED EMAIL ACCOUNT AND FOR AN ADVERSE INFERENCE INSTRUCTION

Plaintiff, Virginia Giuffre, by and through her undersigned counsel, files this Motion to Compel Data from Defendant's Undisclosed Email Account and for An Adverse Inference Instruction regarding the data from that account, and states as follows. Defendant has not disclosed, nor produced data from, the email account she used while abusing Ms. Giuffre from 2000-2002 in violation of this Court's Order [DE 352]. Ms. Giuffre hereby moves to compel Defendant to produce this data, and requests that this Court enter an adverse inference jury instruction for this willful violation of this Court's orders.

I. BACKGROUND

The earliest-dated email Defendant has produced in this litigation is from July 18, 2009. (GM_00069). Ms. Giuffre is aware of two email addresses that appear to be the email addresses Defendant used while Ms. Giuffre was with Defendant and Epstein, namely, from 2000 - 2002. Defendant has denied that she used those accounts to communicate, but she has not disclosed the account she did use to communicate during that time, nor produce documents from it.

Importantly, Defendant has never denied using an email account for communication from 1999-2009, and the facts and circumstances show that it is exceedingly unlikely that Defendant did not use an email account to communicate those years.[1]

For example, according to United States Department of Commerce, "eighty-eight percent of adult Internet users sent or received e-mail" in 2000. *See* Eric C. Newburger, "Home Computers and Internet Use in the United States: August 2000," U.S. DEPARTMENT OF COMMERCE, ECONOMICS AND STATISTICS ADMINISTRATION, U.S. CENSUS BUREAU, September 2001. Additionally, the Pew Research Center published findings that certain demographics have higher internet usage, including many demographics to which Defendant belongs. For example, higher rates of internet usage are found among younger adults (Defendant was 38 in 1999); those with college educations (Defendant has a master's degree); those in households earning more than $75,000 (Defendant was in a household headed by a billionaire during that time, and that household had its own private email server and account); whites or English-speaking Asian-Americans (Defendant is white); and those who live in urban areas (Defendant lived in Palm Beach and Manhattan). *See* Andres Perrin and Maeve Duggan, 'Americans' Internet Access: 2000-2015," PEW RESEARCH CENTER, June 26, 2015.

Additionally, her boyfriend, Jeffrey Epstein, with whom she shared a household from 1999-2002 (and other years), implemented an entire, private email system to communicate with his household and employees, including Defendant. Accordingly, given Defendant's extraordinary economic resources, her high-level social connections, and her elaborate residential email/internet configuration she had during that time, it is extraordinarily unlikely that she would not employ an almost ubiquitous communication tool, nor has she denied it.

[1] On Friday, September 23, 2016, counsel for Ms. Giuffre sent a letter to Defendant inquiring about the undisclosed account. As of the date of this motion, Defendant has made no response.

A. The [redacted] Account

Ms. Giuffre has knowledge of the [redacted] account because it was listed as part of Defendant's contact information (including phone number) on documents gathered by the police from Epstein's home, and turned over to the Palm Beach County State Attorney as part of the investigation and prosecution of Epstein.

See (DE 280-2), Palm Beach County State Attorney's Office, Public Records Request No.: 16-268, Disc 7 at p. 2305 (GIUFFRE007843). Despite the fact that this account was listed as her contact information in the home she shared with Epstein, and despite the fact that ***the username bears her initials***, Defendant claims she does not recognize the account, and has no access to it.

B. The [redacted] Account

The mindspring account is also listed as part of Defendant's contact information gathered by the police. In her filing with this Court, Defendant represented that this was merely a "spam" account "to use when registering for retail sales notifications and the like," and that it contains no relevant documents. (DE 345 at pg. 8). However, it appears that Jeffrey Epstein created the mindspring.org accounts to communicate with his household and with his employees, and did, in fact, communicate with them this way.

As previously recounted, Jeffrey Epstein's house manager, Juan Alessi testified that MindSpring account was in daily use by the Epstein household to send and receive messages, a household to which Defendant belonged:

> Q. So when there would be a message from one of them while they were out of town, they would call you, call you on the telephone?
>
> A. I haven't spoken to Ghislaine in 12 years.

Q. Sorry. I'm talking about when you worked there and you would receive a message that they were coming into town, would that be by way of telephone?

A. Telephone, and also, there was a system at the house, that it was MindSpring, MindSpring I think it's called, that it was like a message system that would come from the office.

Q. What is MindSpring?

A. It was a server. I think it was -- the office would have, like, a message system between him, the houses, the employees, his friends. They would write a message on the computer. There was no email at that time.

Q. Okay. So what computer would you use?

A. My computer in my office.

Q. And so was part of your daily routine to go to your computer and check to see if you had MindSpring messages?

A. No. That was at the end of my stay. That was the very end of my stay. I didn't get involved with that too much. But it was a message system that Jeffrey received every two, three hours, with all the messages that would have to go to the office in New York, and they will print it and send it faxed to the house, and I would hand it to him.

Q. Did it look like the message pads that we've been looking at?

A. No, no, nothing like that.

Q. Was it typed-out messages?

A. Yes, typed-out messages.

Q. Just explain one example of how it would work. Let's say that Ghislaine wanted to send him a message on MindSpring. How would that work?

A. An example?

Q. Sure.

A. It got so ridiculous at the end of my stay, okay? That Mr. Epstein, instead of talking to me that he wants a cup of coffee, he will call the office; the office would type it; they would send it to me, Jeffrey wants a cup of coffee, or Jeffrey wants an orange juice out by the pool.

Q. He would call the office in New York. They would then type it in MindSpring?

A. Send it to me.

Q. How would you know to check for it? How would you know to look for this MindSpring?

A. Because I was in the office. I was there. I was there. And we have a signal when it come on and says, Hey, you've got mail.

Q. Okay.

A. Every day. Every day it was new things put in. That's why I left, too.

Q. Do you know who set up the mind spring system?

A. It was a computer guy. It was a computer guy who worked only for Jeffrey. Mark. Mark Lumber.

Q. Was he local to Palm Beach?

A. No. He was in New York. Everything was set up from New York. And Mark Lumber, I remember he came to Palm Beach to set up the system at the house.

Alessi Dep. Tr. at 223:5-225:17. (June 1, 2016) (McCawley Decl. at Sealed Exhibit 1). Accordingly, mindspring was a domain name set up for Jeffrey Epstein and his household to communicate with one another, and was, in fact, used in this manner.

The sworn testimony of Janusz Banasiak, another of Epstein's house managers, from the case *L.M. v. Jeffery Epstein and Sarah Kellen*,[2] gives a fuller representation of how Defendant, and others in Epstein's sex-trafficking ring, used their accounts on Epstein's mindspring server:

Q. Okay. Were you aware that Mr. Epstein used a Citrix program to link various computers? Did you know that?

A. Yeah. I use Citrix too in my computer for exchanging e-mails and get through Internet.

***

[2] Case No.: 502008CA028051XXXXMB AB, In the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

Q. That's not something that you were, you were privy to? You weren't, you weren't in the loop of the sharing of information in the house in terms of the computers being connected through any server?

A. I don't really know what, how, how to answer your question because Citrix is for the whole organization to exchange e-mail between employees.

Q. All right. You used the term?

A. So, even my computer is connected to Citrix. I can receive mail and I can e-mail information to employee within organization. But I don't know if you can see to each computer what is going on on another computer.

***

Q. You have used the term organization; you can share within the organization. What do you -- just so I can understand what you're calling the organization, what do you mean by that word?

A. People employed by Jeffrey Epstein. There are a few groups of people, his office in New York and I guess --

***

Q. Okay. The other people mentioned as co-conspirators are Sarah Kellen, Adriana Ross, and Nadia Marcinkova. So we'll get to them in a minute but first just so we stay on the track of who was in the organization, is Sarah Kellen, Adriana Ross and Nadia Marcinkova all people that you would also consider within the organization?

A. Yes.

Q. Okay. So, we just added three more names to it. **Who else would you consider, Ghislaine Maxwell?**

A. Yes.

Banasiak Deposition at 56:13-17; 57:2-14; 58:1-7; 60:21-61:7 (February 16, 2010) (Emphasis added) (McCawley Decl. at Sealed Composite Exhibit 2).

As Defendant was a member of Epstein's household, and claims to have been his employee (See McCawley Decl. at Sealed Exhibit 3, Maxwell's April 22, 2016 Dep. Tr. at 10:7-11:3), it is unlikely that her mindspring account was merely a "spam account" from 1999-2002. It is much more likely that this account has - or *had* - Defendant's communications with co-

conspirators Sarah Kellen, Nadia Marcinkova, and Epstein. However, it is Defendant's representation that this account does not presently have responsive documents and was merely used for "spam."

C. Defendant's Non-Disclosed Email Account

If the Court accepts Defendant's claim that she used neither the earthlink.net account nor the mindspring.org "spam" account to communicate, logic dictates that Defendant must have had another email account - one that she actually used - from 2000 - 2002. Despite the Court's orders that Defendant produce responsive documents from ***all*** her email accounts from 1999 to the present, Defendant has neither disclosed nor produced from the email account that she actually used to communicate from 2000-2002. This refusal violates this Court's orders. Ms. Giuffre issued requests to Defendant on October 27, 2015. Nearly a year later, after this Court has specifically ordered Defendant to produce her responsive email from ***all*** her accounts, Defendant has produced none from this account. Not only has Defendant failed to produce emails from the account she actually used from 1999-2002, and she has not even disclosed what account it is.

II. ARGUMENT

A. An Adverse Inference Instruction is Appropriate

An adverse inference instruction is appropriate regarding documents from the email account Defendant actually used from 1999-2002. In light of this clear and persistent pattern of recalcitrance, the Court should instruct the jury that it can draw an adverse inference that the Defendant has concealed relevant evidence. Even if Defendant were, at this late date, to run Ms. Giuffre's proposed search terms over the data from the email account she used from 1999 - 2002 (which she refuses to disclose), such a production would be both untimely and prejudicial. Fact discovery has closed. Numerous depositions have already been taken by Ms. Giuffre without the benefit of these documents. The window for authenticating the documents through depositions

has shut. Expert reports have been exchanged, so Ms. Giuffre's experts did not have the benefit of reviewing these documents. Late production of this information robs Ms. Giuffre of any practical ability to use the discovery, and, importantly, it was incumbent on Defendant to identify this account.

The Second Circuit has stated, "[w]here documents, witnesses, or information of any kind relevant issues in litigation is or was within the exclusive or primary control of a party and is not provided, an adverse inference can be drawn against the withholding party. Such adverse inferences are appropriate as a consequence for failure to make discovery." *Bouzo v. Citibank*, N.A., 1993 WL 525114, at *1 (S.D.N.Y. 1993) (internal citations omitted). The Defendant's continued systemic foot-dragging and obstructionism – even following the Court's June 20 Sealed Order and August 10, 2016 Order [DE 352] – makes an adverse inference instruction with regard to Defendant's documents appropriate. An adverse inference instruction is appropriate when a party refuses to turn over documents in defiance of a Court Order. *See Lyondell-Citgo Refining, LP v. Petroleos de Venezuela, S.A.*, 2005 WL 1026461, at *1 (S.D.N.Y. May 2, 2005) (denying application to set aside Magistrate Judge Peck's order entering an adverse inference instruction against defendant for failure to produce documents that the Judge Peck had ordered Defendant to produce). Accordingly, because a "party's failure to produce evidence within its control creates a presumption that evidence would be unfavorable to that party" an adverse inference should be applied with respect to Defendant's failure to produce data from the email account she used from 1999 -2002 "in order to ensure fair hearing for [the] other party seeking evidence." *Doe v. U.S. Civil Service Commission*, 483 F. Supp. 539, 580 (S.D. N.Y., 1980) (*citing International Union v. NLRB*, 148 U.S. App. D.C. 305, 312-317, 459 F.2d 1329, 1336-41 (D.C.Cir.1972)).

"An adverse inference serves the remedial purpose of restoring the prejudiced party to the same position he would have been in absent the wrongful destruction of [or willful refusal to produce] evidence by the opposing party." *Chevron Corp. v. Donziger*, 296 F.R.D. 168, 222 (S.D.N.Y. 2013) (granting an adverse inference when defendants refused to produce documents pursuant to the District Court's order). Where "an adverse inference ... is sought on the basis that the evidence was not produced in time for use at trial, the party seeking the instruction must show (1) that the party having control over the evidence had an obligation to timely produce it; (2) that the party that failed to timely produce the evidence had 'a culpable state of mind'; and (3) that the missing evidence is 'relevant' to the party's claim or defense such that a reasonable trier of fact could find that it would support that claim or defense." *Id*. (citing *Residential Funding Corp. v. DeGeorge Financial Corp.*, 306 F.3d 99, 108 (2d Cir. 2002)).

Furthermore, as discussed in detail in Ms. Giuffre's Motion for an Adverse Inference Instruction (DE 315) and Supplement Motion for Adverse Inference Instruction (DE 338), an adverse inference is appropriate regarding the documents that Defendant is withholding under the Second Circuit's test set forth in *Residential Funding*. Defendant has admitted to deleting emails as this Court noted in its Order. An adverse inference is equally appropriate if the non-compliance was due to Defendant's destruction of evidence. *See Brown v. Coleman*, 2009 WL 2877602, at *2 (S.D.N.Y. Sept. 8, 2009) ("Where a party violates a court order—either by destroying evidence when directed to preserve it or by failing to produce information because relevant data has been destroyed—Rule 37(b) of the Federal Rules of Civil Procedure provides that the court may impose a range of sanctions, including dismissal or judgment by default, preclusion of evidence, imposition of an adverse inference, or assessment of attorneys' fees and costs. Fed. R. Civ. P. 37(b); *see Residential Funding Corp. v. DeGeorge Financial Corp*., 306

F.3d 99, 106–07 (2d Cir.2002)"). *See also Essenter v. Cumberland Farms, Inc.*, 2011 WL 124505, at *7 (N.D.N.Y. Jan. 14, 2011); and Rule 37(e), Fed. R. Civ. P. ("If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it . . . the court: (2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may: (A) presume that the lost information was unfavorable to the party; (b) instruct the jury that it may or must presume the information was unfavorable to the party; or (C) dismiss the action or enter a default judgment."). Failure to disclose the email account Defendant actually used from 1992-2002 warrants an adverse inference instruction.

III. CONCLUSION

For the reasons set forth above, Ms. Giuffre respectfully requests that this Court compel Defendant to disclose what email account she actually used from 2009-1999, and that the court give the jury an adverse inference jury instruction concerning the documents from the undisclosed email account.

October 14, 2016

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley

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[3] This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah for this private representation.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

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/s/ Meredith Schultz
Meredith Schultz

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.

_____/

DECLARATION OF SIGRID MCCAWLEY IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL DATA FROM DEFENDANT'S UNDISCLOSED EMAIL ACCOUNT AND FOR AN ADVERSE INFERENCE INSTRUCTION

I, Sigrid McCawley, declare that the below is true and correct to the best of my knowledge as follows:

1. I am a Partner with the law firm of Boies, Schiller & Flexner LLP and duly licensed to practice in Florida and before this Court pursuant to this Court's Order granting my Application to Appear Pro Hac Vice.

2. I respectfully submit this Declaration in Support of Plaintiff's Motion to Compel Data from Defendant's Undisclosed Email Account and for Adverse Inference Instruction.

3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of Excerpts from June 1, 2016, Deposition of Juan Alessi.

4. Attached hereto as Sealed Composite Exhibit 2 are true and correct copies of Excerpts from February 16, 2010 Deposition of Janusz Banasiak.

5. Attached hereto as Sealed Exhibit 3 is a true and correct copy of Excerpts from April 22, 2016 Deposition of Ghislaine Maxwell.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Sigrid McCawley
Sigrid McCawley, Esq.

Dated: October 14, 2016.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of October, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

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/s/ Sigrid S. McCawley
Sigrid S. McCawley

EXHIBIT 1

(File Under Seal)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

----------x

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

----------x

June 1, 2016
9:12 a.m.

C O N F I D E N T I A L

Deposition of JOHN ALESSI, pursuant to notice, taken by Plaintiff, at the offices of Boies Schiller & Flexner, 401 Las Olas Boulevard, Fort Lauderdale, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

Q. You never received emails from either of them?

A. No, sir.

Q. So when there would be a message from one of them while they were out of town, they would call you, call you on the telephone?

A. I haven't spoken to Ghislaine in 12 years.

Q. Sorry. I'm talking about when you worked there and you would receive a message that they were coming into town, would that be by way of telephone?

A. Telephone, and also, there was a system at the house, that it was MindSpring, MindSpring I think it's called, that it was like a message system that would come from the office.

Q. What is MindSpring?

A. It was a server. I think it was -- the office would have, like, a message system between him, the houses, the employees, his friends. They would write a message on the computer. There was no email at that time.

Q. Okay. So what computer would you use?

A. My computer in my office.

Q. And so was part of your daily routine to go to your computer and check to see if you had

MindSpring messages?

A. No. That was at the end of my stay. That was the very end of my stay. I didn't get involved with that too much. But it was a message system that Jeffrey received every two, three hours, with all the messages that would have to go to the office in New York, and they will print it and send it faxed to the house, and I would hand it to him.

Q. Did it look like the message pads that we've been looking at?

A. No, no, nothing like that.

Q. Was it typed-out messages?

A. Yes, typed-out messages.

Q. Just explain one example of how it would work. Let's say that Ghislaine wanted to send him a message on MindSpring. How would that work?

A. An example?

Q. Sure.

A. It got so ridiculous at the end of my stay, okay? That Mr. Epstein, instead of talking to me that he wants a cup of coffee, he will call the office; the office would type it; they would send it to me, Jeffrey wants a cup of coffee, or Jeffrey wants an orange juice out by the pool.

Q. He would call the office in New York. They would then type it in MindSpring?

A. Send it to me.

Q. How would you know to check for it? How would you know to look for this MindSpring?

A. Because I was in the office. I was there. I was there. And we have a signal when it come on and says, Hey, you've got mail.

Q. Okay.

A. Every day. Every day it was new things put in. That's why I left, too.

Q. Do you know who set up the mind spring system?

A. It was a computer guy. It was a computer guy who worked only for Jeffrey. Mark. Mark Lumber.

Q. Was he local to Palm Beach?

A. No. He was in New York. Everything was set up from New York. And Mark Lumber, I remember he came to Palm Beach to set up the system at the house.

Q. Did you become aware at some point in time that there was a bag or a briefcase of cash that was in the house?

COMPOSITE
EXHIBIT 2
(FILE UNDER SEAL)

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO:502008CA028051XXXXMB AB

L.M.

Plaintiff,

-vs-

JEFFREY EPSTEIN
AND SARAH KELLEN,

Defendants.
_____/

DEPOSITION OF JANUSZ BANASIAK

Tuesday, February 16, 2010
10:09 - 2:30 p.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.: 1317

Q. Is your computer in your office --
A. Yes.
Q. Let me finish. Is the computer in your office linked up with the three computers that were removed from the house? Meaning, can you look at the system and see what is on those three computers?
A. No, no.
Q. Is it your understanding that those three computers are linked with one another or do you know?
A. I don't know, but I, I doubt it. They are separate I guess.
Q. Okay. Were you aware that Mr. Epstein used a Citrix program to link various computers? Did you know that?
A. Yeah. I use Citrix too in my computer for exchanging e-mails and get through Internet.
Q. Okay. So, is it your understanding that the only connection then through Citrix with these computers, these various computers that were in Mr. Epstein's home, was for e-mail purposes?
A. Yes.
Q. Okay. To your knowledge, you're not familiar with those computers sharing other files or information?

A. No.

Q. That's not something that you were, you were privy to? You weren't, you weren't in the loop of the sharing of information in the house in terms of the computers being connected through any server?

A. I don't really know what, how, how to answer your question because Citrix is for the whole organization to exchange e-mail between employees.

Q. All right. You used the term?

A. So, even my computer is connected to Citrix. I can receive mail and I can e-mail information to employee within organization. But I don't know if you can see to each computer what is going on on another computer.

Q. You don't know about --

A. Is that your question?

Q. You don't know about shared files?

A. No.

Q. You only know that the one computer can e-mail the other?

A. Right.

Q. But that can happen with any two computers in the world pretty much. You can send e-mails to each other, right.

A. Yes.

Q. You have used the term organization, you can share within the organization. What do you -- just so I can understand what you're calling the organization, what do you mean by that word?

A. People employed by Jeffrey Epstein. There are a few groups of people, his office in New York and I guess --

Q. Who are those people by name that you would consider within the Jeffrey Epstein organization?

A. His accountant, his --

Q. Who is that?

A. Bella Klen.

Q. What is it?

A. Bella Klen. K-l-i-n. E-n, I'm sorry.

Q. Bella, B-e-l-l-a?

A. Yes.

Q. Is that somebody in New York?

A. Yes.

Q. Is that a male or female?

A. Female.

Q. And you understand that's his accountant?

A. Right.

MR. GOLDBERGER: Just to get the spelling correct is it K-l-e-i-n?

THE WITNESS: I don't know.

BY MR. EDWARDS:

Q. We'll go back to that but I tell you why I ask. If you don't know then you don't know, but in the course of Mr. Epstein's -- you're aware that he did plead guilty to a couple felonies in state court, right?

A. Right.

Q. Well, in the course of the negotiation with the federal government and the U.S. Attorney's Office, they, the agreement between Mr. Epstein and the U.S. Attorney's office mentions people that are called co-conspirators of Epstein. And Leslie Groff is named as one of those co-conspirators.

Do you know what involvement, if any, that she had with the crimes that were being investigated?

A. No.

Q. Okay.

A. I am not aware of this.

Q. Okay. The other people mentioned as co-conspirators are Sarah Kellen, Adriana Ross, and Nadia Marcinkova. So we'll get to them in a minute but first just so we stay on the track of who was in the organization, is Sarah Kellen, Adriana Ross and

Nadia Marcinkova all people that you would also consider within the organization?

A. Yes.

Q. Okay. So, we just added three more names to it. Who else would you consider, Ghislaine Maxwell?

A. Yes.

Q. And who else?

A. Who was working there?

Q. Bella, Richard Kahn, Leslie Groff, Ghislaine Maxwell, Nadia, Sarah, Adriana.

A. I think Harry was involved with the accounting.

Q. Okay.

A. I don't recall his last name.

Q. Somebody else involved with the accounting?

A. Yes.

Q. Okay. Any of those people that you just named, were any of those people that you just named the person that you described as the gentleman that assisted Adriana in removing the computers from the house prior to the search warrant being executed?

A. No. You mean the one who show up to do those computers?

COMPOSITE
EXHIBIT 1
(File Under Seal)

United States District Court
Southern District of Florida

Virginia L. Giuffre,

Plaintiff,

Case No.: _____
Underlying Case No.: 15-cv-07433-RWS
(Southern District of New York) (Sweet, J.)

v.

Jeffrey Epstein,

Defendant.
_____/

PLAINTIFF'S SEALED AGREED MOTION TO FILE MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS AND TESTIMONY FROM JEFFREY EPSTEIN UNDER SEAL PURSUANT TO LOCAL RULE 5.4(b) AND MOTION TO PLACE THE ENTIRE DOCKET UNDER SEAL

Plaintiff Virginia Giuffre, by and through her undersigned counsel, respectfully submits this Unopposed Motion to file her Motion to Compel the Production of Documents and Testimony from Jeffrey Epstein under Seal Pursuant to Local Rule 5.4(b) and Motion to Place the Entire Docket Under Seal, and hereby states as follows.

I. FACTUAL BACKGROUND

The motion to compel seeks to compel production pursuant to a valid Rule 45 subpoena issued to Jeffrey Epstein in the above-styled case, pending in the Southern District of New York (the "New York case"). The case concerns a defamation action brought by a child victim of convicted pedophile Jeffrey Epstein against his live-in girlfriend who assisted him in procuring underage girls, including the plaintiff, Ms. Giuffre. Because of Epstein's central role in the New York case, it is important for Ms. Giuffre to have the requested documents from him in discovery.

United States District Court
Southern District of Florida

Virginia L. Giuffre,

Plaintiff,

Case No.: _____
Underlying Case No.: 15-cv-07433-RWS
(Southern District of New York) (Sweet, J.)

v.

Jeffrey Epstein,

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_____/

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During his deposition, Epstein failed to answer questions or produce documents in response to a Rule 45 subpoena in the New York case. The instant motion seeks to compel production from Epstein in three areas, detailed more fully in the Motion to Compel, based on his improper invocation of the Fifth Amendment in refusing to comply with the subpoena. Epstein's invocation of the Fifth Amendment was invalid for several reasons, as discussed in detail in the Motion to Compel. One of those reasons, however, goes to the instant request to file the motion to compel under seal and to place the docket under seal. In should be noted that the entire deposition of Epstein is confidential, having been placed under the confidentiality order that exists in the case.

II. LEGAL ARGUMENT

The parties agree this case should be placed under seal because of the need for confidentiality. There is no valid invocation of the Fifth Amendment when there is no threat to self-incrimination, and there can be no threat to self-incrimination if the government is not aware of the information Ms. Giuffre seeks pursuant to her valid Rule 45 subpoena. Because Ms. Giuffre seeks to have *all* of the relevant proceedings to her motion to compel - including the motion itself - be placed under seal at this time, the Government will not be aware of Epstein's disclosure of materials, much less be in position to even file a motion to attempt alter the protective order. In such circumstances, Epstein faces no "real and substantial hazard" of his act of producing documents to Ms. Giuffre's counsel incriminating himself. *See United States v. Kowalik*, 809 F. Supp. 1571, 1577 (S.D. Fla. 1992), *aff'd,* 12 F.3d 218 (11th Cir. 1993), and *aff'd,* 12 F.3d 218 (11th Cir. 1993). Accordingly, by placing this case under seal, this Court can grant Ms. Giuffre's motion to compel and direct Epstein to produce the relevant documents over his

improper Fifth Amendment objections because there is no risk of incrimination because these proceedings will be under seal.

Moreover, under the Protective Order issued by the New York case, Ms. Giuffre's counsel (and counsel for Ms. Maxwell,[1] the Defendant in the New York case) are forbidden to disclose the materials for "any purpose except the preparation and trial of this case." Protective Order, ¶ 4. Under the terms of the protective order, all materials secured in the case will be destroyed at the end of the case. Protective Order, ¶ 12. And while the Protective Order does not bar the use of confidential materials at trial, Protective Order ¶ 13, Ms. Giuffre's counsel represent that they will not use at trial any documents that Epstein produces without first notifying Epstein and seeking leave of Court to do so. As a result, Epstein can provide documents to Ms. Giuffre, allowing her to investigate this case without compromising any interest that Epstein may have in avoiding self-incrimination.

Additionally, the entire deposition has already been designated as "confidential" by defendant Maxwell, making these proceedings subject to a protective order. *See* Motion to Compel at Addendum A (copy of protective order). To enforce that previously-entered confidentiality order from the Southern District of New York, these proceedings should be confidential as well. Moreover, in such circumstances, there is no substantial risk of incrimination from the mere production of documents to Ms. Giuffre's counsel, who are subject to the protective order. *See generally* Marc Youngelson, *The Use of 26(c) Protective Orders: "Pleading the Fifth" Without Suffering "Adverse" Consequences*, 1994 Ann. Surv. Am. L. 245 (1995); *see also Palmieri v. State of New York*, 779 F.2d 861 (2d Cir. 1985).

[1] It may be relevant to note that defendant Maxwell has not sought any documents from Epstein, and thus the only issue presented here is the extent to which Ms. Giuffre can use the documents.

Federal Rule of Civil Procedure 26 authorizes a court, for good cause, to enter a protective order to seal or to limit disclosure. Indeed, courts have the discretion to place entire cases under seal. *See e.g. Beaches MLS, Inc. v. Miami Association of Realtors, Inc.*, 2015 WL 11170925, at *3 (S.D.Fla. 2015) (Marra, J.) (granting motion to file under seal and sealing the case). Local Rule 5.4(b) provides the procedure to follow when a party seeks to file something under seal: the party must file a motion, "setting forth a reasonable basis for departing from the general policy of a public filing," and courts in this district routinely grant parties' motions to file under seal for good cause. *See e.g. Shire Development LLC v. Watson Pharmaceuticals, Inc.*, 932 F.Supp.2d 1349, 1359 (S.D.Fla. 2013) (Middlebrooks, J.); *Air Turbine Technology, Inc. v. Atlas Copco AB*, 2003 WL 22939256, at *1 (S.D.Fla. 2003) (Marra, J.).

Ms. Giuffre has articulated good cause to grant her motion to file under seal and to seal this case, as it would facilitate the execution of a valid Rule 45 subpoena issued upon Jeffrey Epstein and follow the confidentiality order previously entered in this case by the U.S. District Court for the Southern District of New York. Counsel for Ms. Giuffre has conferred with counsel for Epstein, and counsel for Epstein has agreed to the filing of the Motion to Compel under seal.

III. CONCLUSION

For the reasons set forth above, plaintiff, Virginia Giuffre, respectfully requests that the Court grant her Agreed Motion to file her Motion to Compel the Production of Documents and Testimony from Jeffrey Epstein under Seal Pursuant to Local Rule 5.4(b) and Motion to Place the Entire Docket Under Seal for the reasons set forth above.

Dated: September 20, 2016 Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of September, 2016, I served the foregoing document this day on the individuals identified below via email:

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Counsel for Jeffrey Epstein

Sigrid S. McCawley

JS 44 (Rev. 07/16) FLSD Revised 07/01/2016

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

FILED BY D.C. SEP 20 2016 STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. FLA. FT. LAUD.

I. (a) PLAINTIFFS Virginia L. Giuffre

DEFENDANTS Jeffrey Epstein

(b) County of Residence of First Listed Plaintiff *(EXCEPT IN U.S. PLAINTIFF CASES)*

County of Residence of First Listed Defendant Palm Beach *(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Sigrid S. McCawley, Esq., Boies, Schiller & Flexner, LLP, 401 E. Las Olas Blvd., #1200, Ft. Lauderdale, FL 33301 954-356-0011

Attorneys *(If Known)*

Jack Alan Goldberger, Esq., Atterbury, Goldberger & Weiss, PA, 250 Australian Ave So., #1400, W. Palm Beach, FL 33401 561-659-8305

(d) Check County Where Action Arose: ☐ MIAMI- DADE ☐ MONROE ☐ BROWARD ☑ PALM BEACH ☐ MARTIN ☐ ST LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☑ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff) and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☑ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☑ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Med. Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence

Other:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee – Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729 (a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (See VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district *(specify)* ☐ 6 Multidistrict Litigation Transfer ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Multidistrict Litigation – Direct File ☐ 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐YES ☐NO b) Related Cases ☑YES ☐ NO

JUDGE: Kenneth A. Marra **DOCKET NUMBER:** 9:08-CV-80736-KAM

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause *(Do not cite jurisdictional statutes unless diversity)*:
Miscellaneous Action to Enforce Rule 45 Subpoena

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE September 20, 2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

United States District Court
Southern District of Florida

Virginia L. Giuffre,

Plaintiff,

Case No.: _____
Underlying Case No.: 15-cv-07433-RWS
(Southern District of New York) (Sweet, J.)

v.

Jeffrey Epstein,

Defendant.
_____/

PLAINTIFF'S SEALED MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS AND TESTIMONY FROM JEFFREY EPSTEIN

Plaintiff Virginia Giuffre, by and through her undersigned counsel, respectfully submits this motion to compel Jeffrey Epstein to produce documents and testimony in response to his repeated invocations of the Fifth Amendment at his recent deposition.

This motion seeks to compel production from Epstein in three areas. First, at his deposition, Epstein asserted that the Fifth Amendment allowed him to decline to produce any documents whatsoever. Epstein has the burden of demonstrating the applicability of the Fifth Amendment privilege, and he cannot carry that burden. He should be required to produce documents or, at the very least, a privilege log so that the Court (and opposing counsel) can assess the validity of his claims.

Second, Epstein was asked approximately 500 hundred substantive questions at his deposition, and he took the Fifth rather than answer even a single one of them (other than the question about his name). Some of the questions he refused to answer pose no substantial risk of

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Second, Epstein was asked approximately 500 hundred substantive questions at his deposition, and he took the Fifth rather than answer even a single one of them (other than the question about his name). Some of the questions he refused to answer pose no substantial risk of

incrimination. He should be ordered to answer these specific questions, which are enumerated in Section II, below.

Third, Epstein also took the Fifth when asked questions about Ghislaine Maxwell's interactions with females overseas. Maxwell was Epstein's live-in girlfriend who assisted him in procuring underage girls. The Supreme Court has made clear that a Fifth Amendment privilege cannot be asserted with respect to incrimination in a foreign crime. And certainly Epstein has no Fifth Amendment privilege involving sex crimes committed by another person. Epstein should be ordered to answer specific questions identified in Section III, below about Maxwell's actions in foreign countries.

FACTUAL BACKGROUND

1. Ms. Giuffre has filed a defamation action in the Southern District of New York against Ghislaine Maxwell. In brief, Ms. Giuffre alleges that defendant Ms. Ghislaine Maxwell defamed her by calling her a "liar" for filing documents alleging that Maxwell and her boyfriend, Jeffrey Epstein, had sexually abused her and trafficked her for sexual purposes. *See* McCawley Decl., Exhibit 1 (complaint in *Giuffre v. Maxwell*).

2. As discovery in this case has proceeded, Defendant initially suggested she would take the Fifth and refuse to answer questions. During her deposition, however, Defendant did not take the Fifth. Instead, she testified that she suffered from a series of memory lapses and could not recall many of the key issues in dispute in this case. For example, at her deposition, Defendant indicated that she lacked recollection of or was otherwise unable to specifically answer the following questions:[1]

- Whether Defendant observed a female under the age of 18 at Jeffrey Epstein's home in Palm Beach. *See* McCawley Decl., Ex. 2 (Maxwell Depo.) at 29;

[1] Maxwell has designated the entire contents of her deposition as confidential pursuant to the Protective Order entered in that case, and, therefore, the contents must be filed under seal.

- Whether Defendant had meet Ms. Giuffre and introduced her to Epstein. *Id.* at 33;
- Whether massage therapists at Epstein's mansions performed sexual acts. *Id.* at 52-54.
- Whether Defendant was ever present to view Ms. Giuffre massaging Epstein. *Id.* at 75;
- Whether Defendant could recall Ms. Giuffre staying at any of Epstein's six homes. *Id.* at 81.
- Whether Defendant remembered taking a trip with Ms. Giuffre to travel over to Europe, including London. *Id.* at 108.
- Whether Defendant ever flew on one of Epstein's planes with a 17 year old. *Id.* at 121-22.
- Whether the notation "GM" on flight logs for passengers on Epstein's planes represented the Defendant *(i.e.*, Ghislaine Maxwell). *Id.* at 122-23.
- Whether Defendant could recall ever being on a flight on one of Epstein's planes with Ms. Giuffre. *Id.* at 132-33.
- Whether Defendant could explain why a minor would be calling Epstein to say they had a female for him. *Id.* at 164.
- Whether Defendant was aware of any interstate or international transportation of women, aged 18 to 28, for purposes of having sex with Epstein where they would receive compensation. *Id.* at 278-79.
- Whether Defendant could recall interacting with anyone, other than Ms. Giuffre, under the age of 18 on any of Epstein's properties. *Id.* at 384.

See McCawley Decl. at Exhibit 2.

3. As this Court is aware from another pending case, Epstein is a registered sex offender who entered into a non-prosecution agreement (NPA), barring his prosecution for federal crime for his sexual abuse of Ms. Giuffre and multiple other victims. Several of Epstein's sexual abuse victims have filed a suit alleging that they were not properly notified of

the NPA and the associated guilty plea that Epstein entered. The victims allege that Epstein sexually abused them and that the Government violated their rights under the Crime Victims' Rights Act (CVRA), 18 U.S.C. 3771, by not conferring with them about the deal that the Government reached with Epstein on that sex abuse. The case is currently pending. *See Jane Does v. United States*, No. 9:08-c-v-80736, DE 361 (S.D. Fla.).

4. Because of Epstein's central role in the sexual abuse of Ms. Giuffre, Ms. Giuffre has long been attempting to depose him in the action. Epstein, who is generally regarded as having vast financial resources, evaded those efforts to be served. Accordingly, on May 25, 2016, Ms. Giuffre sought leave to serve Epstein by alternative means. *Giuffre v. Maxwell*, No. 1:15-cv-07433, DE 160 (S.D.N.Y.). Shortly thereafter, Epstein agreed through counsel to voluntarily appear for a deposition.

5. On August 25, 2016, Ms. Giuffre served a subpoena on Epstein through his counsel. *See* McCawley Decl., Exhibit 3 (Epstein subpoena). The document sought production of 22 categories of documents directly linked to the underlying lawsuit. For example, request for production ("RFP") 1 sought all photographs of Epstein in the presence of either Ms. Giuffre or Ms. Maxwell. RFP 6 sought Epstein's documents relating to Ms. Giuffre. RFP 7 sought Epstein's documents relating to Ms. Maxwell. The subpoena requested Epstein make the production of documents within the Southern District of Florida

6. On September 2, 2016, Epstein's legal counsel sent a letter to Ms. Giuffre's legal counsel raising various objections to production of documents, including a Fifth Amendment privilege. *See* McCawley Decl., Exhibit 4 (Goldberger letter). (Because the letter was sent via conventional mail, counsel did not receive it until September 8, 2016.)

7. On September 9, 2016, Epstein appeared pursuant to the subpoena and was deposed. *See* McCawley Dec., Exhibit 5 (transcript of Epstein's deposition). The deposition took place in West Palm Beach, Florida.

8. After Epstein was sworn in, he invoked his Fifth Amendment right on every single substantive question he was asked, except the question asking his name. He was asked approximately 500 substantive questions by counsel for Ms. Giuffre and approximately 100 substantive questions by counsel for defendant Maxwell. He did not answer a single one.[2]

9. Counsel for Ms. Giuffre attempted to confer with Epstein's counsel regarding the basis for the privilege objections, but Epstein's counsel declined to elaborate. Epstein Depo. Tr. at 10.

10. With regard to the subpoena producing documents, Epstein took the Fifth rather than answer questions about whether he had substantial financial resources that could minimize any burden in responding to the document production request. *Id.* at 164:22-25.

11. With regard to producing document, Epstein and his lawyers asserted a Fifth Amendment privilege:

> Q. Did you bring any documents with you today pursuant to this subpoena?
>
> A. Fifth.
>
> MR. WEINBERG [counsel for Epstein]: We would assert the Fifth Amendment as well as the act of production for the protections against responding to that question or producing any documents, relying on the Supreme Court decision in Hubble, the second circuit August 1st decision in Greenfield.
>
> Q. MR. CASSELL: Understood. I'll assume you have a standing objection based on the grounds that you just described to all my questions with regard to this subpoena?

[2] Maxwell has designated the entire contents of Epstein's deposition as confidential pursuant to the Protective Order entered in that case, and, therefore, the contents must be filed under seal.

MR. GOLDBERGER: Just so we're clear, the Fifth Amendment objection as to act of production is going to apply to everything that --

MR. CASSELL: Yeah. We disagree. You have an Fifth Amendment and act of production.

BY MR. CASSELL:
Q. You have made no effort to collect any of the documents requested here, right? . . .[3]

THE WITNESS: Fifth Amendment.

BY MR. CASSELL:
Q. In of the last three weeks you made no search at all for the 22 categories of documents requested here, right? . . .

THE WITNESS: Fifth.

BY MR. CASSELL:
Q. Where are the documents requested by these 22 requested categories?

A. Fifth.

Q. You have not produced a privilege log for these items, have you?

A. Fifth.

Q. It would not be burdensome for you to search for any of these documents, would it? . . .

THE WITNESS: Fifth.

BY MR. CASSELL:

Q. It would be quite simple for you[] to run search terms, such as Virginia, through your e-mail accounts, right? . . .

THE WITNESS: Fifth.
BY MR. CASSELL:

Q. And you have plenty of money to fund any of the searches that would be required to produce these documents, right? . . .

[3] Defense counsel for Ms. Maxwell raised various "form and foundation" objections to these questions, which are omitted for purposes of this motion, which seeks to compel actions by Epstein, not Maxwell.

THE WITNESS: Fifth.

Id. at 226-29.

12. Epstein was also asked specific questions with regard to his failure to produce certain records, such as telephone records regarding his communications with Maxwell. Epstein also took the Fifth rather than answer any such question. *Id.* at 229-30.

13. Epstein was also asked various questions about Maxwell's interactions with females overseas. In particular, he was asked about actions in England (*id.* at 140-47), France (*id.* at 152-54), Thailand (*id.* at 154-57), Brunei (*id.* at 157-59), the Czech Republic (and former Czechoslovakia) (*id.* at 159-63), and other foreign countries (*id.* at 163-64). Epstein refused to answer any of these questions. In latter questioning, Epstein took the Fifth rather than admit that part of his basis for asserting the Fifth Amendment privilege was fear of foreign prosecutions. *Id.* at 343.

14. Ms. Giuffre now files the motion to compel production of the documents pursuant to her duly-issued subpoena.

LEGAL STANDARDS

Under Federal Rule of Civil Procedure 45, a party may request any person to appear for a deposition to answer questions and to produce documents within his possession. Under Fed. R. Civ. P. 45(d)(2)(B), a person who objects to production can lodge an objection. At that point, the party seeking production can move for an order compelling production of the documents, Fed. R. Civ. P. 45(d)(2)(B)(i), which is the step that Ms. Giuffre is now taking. The motion for production of documents must be filed in the Court where production is required – *i.e.*, in this Court. Similarly, with regard to production of testimony, a party seeking discovery can move for

an order requiring disclosure. Fed. R. Civ. P. 37(a)(1). The motion must also be made in the Court where the discovery is to be taken – *i.e.*, in this Court. Fed. R. Civ. P. 37(a)(1).

A party contending that a subpoena should be quashed pursuant to Rule 45(c) (3)(A)(iv) must demonstrate that compliance with the subpoena would be unduly burdensome." *Bridgeport Music Inc. v. UMG Recordings, Inc.*, No. 05CIV.6430(VM)(JCF), 2007 WL 4410405, at *1 (S.D.N.Y. Dec. 17, 2007). In addition, a party asserting that he is privileged not to produce a document has the burden of establishing that privilege. *See MapleWood Partners, L.P. v. Indian Harbor Ins. Co.*, 295 F.R.D. 550, 583 (S.D. Fla. 2013) (applying Florida law) ("the burden of demonstrating that a privilege applies to a particular communication . . . is on the proponent of the privilege"); *United States v. Bright*, 596 F.3d 683, 691 (9th Cir. 2010) (witness asserting Fifth Amendment privilege "bears the burden of showing testimony or documents are privileged").

While Epstein can assert a Fifth Amendment privilege in this civil case, "it is not for the witness to determine whether the answers are protected; it is a decision left to the sound discretion of the trial court after considering the circumstances of the case. [T]o assert the privilege there must be a "substantial and 'real' " threat of incrimination and not one that is "merely trifling or imaginary." *Taubert v. State, Office of Atty. Gen.*, 79 So. 3d 77, 81 (Fla. Dist. Ct. App. 2011) (*citing Marchetti v. United States*, 390 U.S. 39, 53 (1968); *State v. Mitrani*, 19 So.3d 1065, 1068 (Fla. 5th DCA 2009) (other internal citations omitted)). After Epstein explains the basis for his invocation, and Ms. Giuffre responds, this Court then makes findings on a question-by-question basis. *See, e.g., Capitol Prod. Corp. v. Hernon*, 457 F.2d 541, 544 (8th Cir. 1972) ("To protect the right of both parties and assure satisfactory review, the court should

clearly state the basis on which it sustains or rejects the defendant's objection to a particular question.").

Because this case is a diversity action state law generally provides the rule of decision for substantive privilege issues. *See Giuffre v. Maxwell*, DE 135 at 6, 2016 WL 175918 at * 6 (applying New York privilege law) (*citing Allied Irish Banks v. Bank of Am., N.A.*, 240 F.R.D. 96, 102 (S.D.N.Y. 2007) ("Because this Court's subject matter jurisdiction is based upon diversity . . . state law provides the rule of decision concerning the claim of attorney-client privilege."). In this case, Epstein's inability to provide a basis for Fifth Amendment invocations does not turn on peculiarities of the law of any one jurisdiction, and thus authorities from various jurisdictions are cited interchangeably.

ARGUMENT

I. EPSTEIN SHOULD BE COMPELLED TO PRODUCE THE REQUESTED DOCUMENTS.

A. It is Not Unduly Burdensome for Epstein to Produce the Requested Documents.

If Epstein wishes to establish undue burdensomeness in producing documents, it is his burden to carry. As recounted above, however, Epstein has refused to answer questions regarding undue burdensomeness. *See* Statement of Fact, **at ¶ 10.** Presumably this is because his vast wealth would make it difficult from him to prove that point.

In any event, even were Epstein to attempt to show undue burdensomeness, he could not establish that any burden is "undue." Epstein is a central figure in this case – the most central figure, apart from the two parties, the plaintiff and the defendant. And the defendant is feigning memory loss over many of the most significant events in this case – including many events that involved Epstein. Because of his central role in the case, it is important for Ms. Giuffre to have the requested documents from him. No undue burden exists.

B. Epstein Cannot Assert a Fifth Amendment Privilege in the Documents Themselves.

As reflected in the transcript quoted above, Epstein asserted both a Fifth Amendment privilege not to produce the documents as well as a Fifth Amendment act-of-production privilege. The act of production issues will be addressed in the next section below. But Epstein's Fifth Amendment objection is frivolous.

The contents of pre-existing documents are not protected by the Fifth Amendment. The Fifth Amendment only protects a witness against *testifying* about certain events, not producing documents already in his position. In his deposition, Epstein's legal counsel referenced two cases: *United States v. Hubbell*, 530 U.S. 27 (2000); and *United States v. Greenfield*, --- F.3d ---, 2016 WL 4073250 (2d Cir. Aug. 2, 2016). But as both of those cases make clear, a defendant does not have a Fifth Amendment privilege to refuse to produce documents (as opposed to the privilege that does exist to refuse to give testimony verbally). The Supreme Court in *Hubbell* specifically noted "the settled proposition that a person may be required to produce specific documents even though they contain incriminating assertions of fact or belief because the creation of those documents was not 'compelled' within the meaning of the [Fifth Amendment] privilege." *Hubbell*, 530 U.S. at 35–36 (*citing Fisher v. United States*, 425 U.S. 391 (1976)). Similarly, the Second Circuit in *Greenfield*, following the Supreme Court's lead, held that "the *contents* of the records [do] not implicate the Fifth Amendment." --- F.3d ---, 2016 WL 4073250 at *5 (reviewing *Fisher*, 425 U.S. at 409-10). *See also Braswell v. United States*, 487 U.S. 99, 102 (1988) ("There is no question but that the contents of subpoenaed business records are not privileged."); *United States v. Doe*, 465 U.S. 605, 612 n. 10 (1984) ("If the party asserting the Fifth Amendment privilege has voluntarily compiled the document, no compulsion is present and the contents of the document are not privileged.").

In light of these controlling authorities, Epstein cannot rely on a Fifth Amendment self-incrimination argument to withhold the documents.

C. Epstein Cannot Assert an Act of Production Privilege to Refuse to Produce the Documents to Ms. Giuffre.

Epstein cannot demonstrate that the act of producing documents in incriminating for two separate and independent reasons. First, he will not be producing anything publicly or to the Government, but only confidentially to Ms. Giuffre – a private party. Because any such production will be confidential and pursuant to a protective order, Epstein faces no substantial threat of prosecution from making the disclosure. Second, Epstein's act of production (as opposed to the documents themselves) is not incriminating.

1. Producing Documents Confidentially to a Private Party Under a Protective Order Does Not Create a Substantial Risk of Incrimination.

During his deposition, Epstein cited two cases as supporting his Fifth Amendment invocations: *United States v. Hubbell*, 530 U.S. 27 (2000); and *United States v. Greenfield*, --- F.3d ---, 2016 WL 4073250 (2d Cir. Aug. 2, 2016). But as even a cursory review of the case captions in those cases makes clear, both of those cases involved litigation in which *the Government* was attempting to force a witness to disclose information *to it*. In *Hubbell*, the issue was whether the Government could issue a subpoena to force a witness to turn over documents to a grand jury investigating criminal charges. 530 U.S. at 30-31. In *Greenfield*, the issue was similarly whether the Government (specifically the Internal Revenue Service or IRS) could force a taxpayer to turn over records demonstrating possible tax evasion to it.

Here, no such disclosure to the Government will occur if Epstein is compelled to provide answers to Ms. Giuffre's questions. Moreover, the entire deposition has already been designated as "confidential" by defendant Maxwell, making the proceedings subject to a protective order. *See* Addendum A (copy of protective order). In such circumstances, there is no substantial risk

of incrimination from the mere production of documents to Ms. Giuffre's counsel. *See generally* Marc Youngelson, *The Use of 26(c) Protective Orders: "Pleading the Fifth" Without Suffering "Adverse" Consequences*, 1994 Ann. Surv. Am. L. 245 (1995); *see also Palmieri v. State of New York*, 779 F.2d 861 (2d Cir. 1985).

Pursuant to the protective order, Ms. Giuffre's counsel (and Ms. Maxwell's counsel[4]) are forbidden to disclose the materials for "any purpose except the preparation and trial of this case." Protective Order, ¶ 4. Under the terms of the protective order, all materials secured in the case will be destroyed at the end of the case. Protective Order, ¶ 12. And while the Protective Order does not bar the use of confidential materials at trial, Protective Order ¶ 13, Ms. Giuffre's counsel represent that they will not use at trial any documents that Epstein produces without first notifying Epstein and seeking leave of Court to do so. As a result, Epstein can provide documents to Ms. Giuffre, allowing her to investigate this case without compromising any interest that Epstein may have in avoiding self-incrimination. And most important, because *all* of the relevant proceedings to this motion – including this motion itself – are under seal at this time, the Government will not even be aware of Epstein's disclosure of materials, much less be in position to even file a motion to attempt alter the protective order. In such circumstances, Epstein faces no "real and substantial hazard" of his act of producing documents to Ms. Giuffre's counsel incriminating himself. *United States v. Kowalik*, 809 F. Supp. 1571, 1577 (S.D. Fla. 1992), *aff'd*, 12 F.3d 218 (11th Cir. 1993), and *aff'd*, 12 F.3d 218 (11th Cir. 1993).

2. Epstein's Mere Act of Producing Documents Does Not Incriminate Himself.

Epstein's act of producing documents to Ms. Giuffre's counsel will not only be unknown to the Government, but it is, in any event, not incriminating. It bears emphasizing – again – that

[4] It may be relevant to note that defendant Maxwell has not sought any documents from Epstein, and thus the only issue presented here is the extent to which Ms. Giuffre can use the documents.

the only possible claim Epstein can raise is not that the document he possesses are in some sense incriminating, but only that the act of producing those documents is incriminating. *See United States v. Doe*, 465 U.S. 605, __ (1984) (O'Connor, J., concurring) ("the Fifth Amendment provides absolutely no protection for the contents of private papers of any kind."); *United States v. Hubbell*, 530 U.S. 27, 35–36 (2000) (noting that it is a "settled proposition that a person may be required to produce specific documents even though they contain incriminating assertions of fact or belief because the creation of those documents was not 'compelled' within the meaning of the privilege"); *Sallah v. Worldwide Clearing LLC*, 855 F. Supp. 2d 1364, 1371 (S.D. Fla. 2012) ("Where documents are voluntarily prepared before they are requested, for example, the Supreme Court has held that such documents do not contain 'compelled testimonial evidence' within the meaning of the Fifth Amendment, even if the contents are incriminating."). The so-called "act of production doctrine" extends protection only to "communicative elements" of production, specifically where compliance with a subpoena could disclose to the Government incriminating information about "(1) the existence of the documents; (2) the [witness's] possession or control of the documents; and (3) the authenticity of the documents." *United States v. Greenfield*, 2016 WL 4073250 at *5 (*citing Fisher v. United States*, 425 U.S. 391, 411 (1976)).

Once again, Epstein will not be making any act of production to the Government. And, in any event, for many documents of the subpoenaed documents, no plausible claim of act-of-production testimony and incrimination[5] are possible. While Ms. Giuffre will respond to any effort that Epstein makes to carry *his* burden of establishing his privilege, a few simple

[5] Under the act of production doctrine, Epstein bears the burden of showing *both* that the production is incriminating and the testimony is incriminating.

illustrations will demonstrate that Epstein's claim that he need not produce even a single document is vastly overbroad.

a. Records Reflecting Communications with Maxwell

One simple example is the request for records reflecting communications between Epstein and defendant Maxwell, including cellular telephone records. *See* Subpoena, ¶ ¶ 7, 13. Cell phone records, which would obviously have been sent to Epstein by his carrier, can be easily authenticated by people other than Epstein – including representatives of the carrier or others knowledgeable in cell phone records. *See Sallah*, 855 F. Supp. 2d at 1374 (requiring production of contracts because "any contracts could be authenticated by someone other than [the person invoking the Fifth Amendment]"). As a result, such records are the kind of regularly-sent business records for which act of production claims are regularly rejected. *See Greenfield*, 2016 WL 4073250 at *11 (noting that "large commercial financial institutions . . . naturally would have sent regular account statements and other disclosures to account holders . . . ") (*citing United States v. Norwood*, 420 F.3d 888, 895-96 (8th Cir. 2005) (allowing production of documents "possessed by the owners of financial accounts as a matter of course" associated with specific identified accounts)); *see Matter of Grand Jury Subpoenas Dated Oct. 22, 1991, & Nov. 1, 1991*, 959 F.2d 1158, 1165 (2d Cir. 1992) ("the act of producing copies of the telephone company statements and bills would not cause Doe to incriminate himself").

b. Bank Records Reflecting Payments

Another similar example is the request for financial records involving payments made to defendant Maxwell. *See* Subpoena, ¶ 21. Here again, the simple act of producing the bank records involved in such payments cannot be recorded as either testimonial or incriminating. This is a case where it can be shown "with reasonable particularity that, at the time that the act of production was sought to be compelled, . . . the materials were already known of, thereby

making any testimonial aspect [of the production] a 'foregone conclusion.'" *Sallah v. Worldwide Clearing LLC*, 855 F. Supp. 2d 1364, 1372 (S.D. Fla. 2012) (*quoting In re Grand Jury Subpoena Duces Tecum Dated March 25, 2011*, 670 F.3d 1335, 1346 (11th Cir.2012) (some internal citations omitted). Indeed, this Court has recently required the production of bank records over a Fifth Amendment objections. *See Sallah*, 855 F.Supp.2d at 1375 ("The Fifth Amendment does not shield [the witness's] act of production in response to this request [seeking monthly bank account records]."). Moreover, because the documents involve payments to one specifically identified person – *i.e.*, Maxwell – the request calls for Epstein to produce "an objectively determinable universe[] of documents and do[es] not require [him] to employ the contents of his mind to choose what documents might be responsive to the requests. *Sallah*, 855 F.Supp.2d at 1373 (internal quotations omitted).

c. Photographs Depicted Nude Females

Epstein also lacks any self-incrimination claim for failing to produce photographs of nude or partially nude females. *See* Subpoena, ¶ 5.[6] A photograph obviously does not involve testimony. And the authenticity of photographs can be established in different ways not involving Epstein. For example, if a photograph fairly and accurately depicts Ms. Giuffre, she herself could authenticate the photograph.

3. Epstein Must, at a Minimum, Produce a Privilege Log.

These examples of documents that could be produced without risk of incrimination could be easily multiplied – and Ms. Giuffre, by filing this motion, seeks to compel Epstein to respond to all 22 of her document requests. But in considering Fifth Amendment issues, a broader point

[6] If Epstein possesses particular photographs that are "child pornography," then production of those particular photographs could itself be incriminating. However, child pornography is narrowly defined as images of a minor "engaging in sexually explicit conduct." *See* 18 U.S.C. 2256(8)(A). Ms. Giuffre is not seeking the production of any such contraband materials from Epstein.

becomes relevant. Epstein does not appear to have even bothered to first collect responsive documents before asserting a Fifth Amendment claim. For example, during his deposition, Epstein took the Fifth rather than answer a question about whether he had produced a privilege log. Epstein Depo. Tr. at 228.

Under the Federal Rules of Civil Procedure, Epstein is required to produce a privilege log for the communications he is withholding. Fed. R. Civ. P. 45(e)(2)(A) provides that "[a] person withholding subpoenaed information under a claim that it is privileged . .. must describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim." Epstein should have provided this log at the time of his deposition so that he could be questioned about it. He certainly should produce a log immediately, if he hopes to sustain his claim.

The "general rule" in this Court is that a "blanket refusal to produce records or to testify is simply insufficient to support a Fifth Amendment claim." *United States v. Kowalik*, 809 F. Supp. 1571, 1577 (S.D. Fla. 1992), *aff'd*, 12 F.3d 218 (11th Cir. 1993), and *aff'd*, 12 F.3d 218 (11th Cir. 1993). Instead, a witness who has been subpoenaed to produce documents "must present himself with his records for questioning, and as to each question and each record elect to raise or not to raise the defense." *Id.* (discussing taxpayer's refusal to respond to IRS summons). In addition, the Court's local rules require the production of a privilege log whenever materials are withheld on the basis of privilege. *See* Local 26.1(e)(2)(C) ("This rule requires preparation of a privilege log with respect to all documents, electronically stored information, things and oral communications withheld on the basis of a claim of privilege . . . .except [attorney-client communications or work product materials created after the lawsuit].").

Epstein was served with a subpoena from the U.S. District Court for the Southern District of New York. That Court also requires production of a privilege log at the time of any objection to a subpoena. As that Court has explained:

> Both Fed. R. Civ. P. 26(b)(5) and 45(c) and S.D.N.Y. Civ. R. 26.2 require the submission of a privilege log where a person served with a document request or subpoena objects to the production of requested documents on the ground of privilege. Rule 26(b)(5) does not explicitly state exactly when the privilege log must be provided. Rule 45 is more precise, requiring that a person objecting to a subpoena must serve either written objections or move to quash within the earlier of the time fixed for compliance or fourteen days after service and, if withholding subpoenaed material on the ground of privilege, must provide a privilege log.[46] It thus suggests strongly that the privilege log, absent judicial relief, must accompany any objections or motion to quash. But Local Rule 26.2 is even more explicit. Paragraph (c) states:
>
> > "Where a claim of privilege is asserted in response to discovery or disclosure other than a deposition, and information is not provided on the basis of such assertion, the information set forth in paragraph (a) above shall be furnished in writing *at the time of the response to such discovery or disclosure, unless otherwise ordered by the court.*"
>
> This reflects a 1997 modification to the local rules "to specifically require that the privilege list ... be furnished at the time of the response unless otherwise ordered by the court."[48]

In re Chevron Corp., 749 F. Supp. 2d 170, 180–81 (S.D.N.Y.), *aff'd sub nom. Lago Agrio Plaintiffs v. Chevron Corp.*, 409 F. App'x 393 (2d Cir. 2010).

Epstein should, at a minimum, be required to produce a privilege log for each of the 22 questions in the subpoena and explain the basis for his Fifth Amendment invocations. At that point, Ms. Giuffre will be in a position to further respond and show why his invocations are not well-founded.

II. EPSTEIN SHOULD BE COMPELLED TO ANSWER QUESTIONS THAT FACIALLY POSE NO REAL AND SUBSTANTIAL RISK OF SELF-INCRIMINATION.

Epstein also took the Fifth with regard to many questions for which there was no realistic risk of self-incrimination. As the Eleventh Circuit has explained, "[t]he central standard for the ... application [of the fifth amendment privilege against self-incrimination is] whether the claimant is confronted by substantial and 'real', and not merely trifling or imaginary, hazards of incrimination." *United States v. Argomaniz*, 925 F.2d 1349, 1353 (11th Cir. 1991) (*citing Marchetti v. United States*, 390 U.S. 39, 53 (1968). Thus, the privilege applies only in "instances where the witness has reasonable cause to apprehend danger" of criminal liability. *Argomaniz*, 925 F.2d at 1353 (*citing Hoffman v. United States*, 341 U.S. 479, 486 (1951)).

Not only does Epstein bear the burden of establishing the validity of his privilege claim, but a "court must make a particularized inquiry, deciding, in connection with each specific area that the questioning party wishes to explore, whether or not the privilege is well-founded." *Argomaniz*, 925 F.2d 1349, 1355 (11th Cir. 1991). Here, there are a number of questions that does not appear to pose any "substantial and real" risk of incrimination. These questions include the following:

1. Q. Is there anything, including any physical conditions or ailments, that would prevent you from giving truthful testimony today? (*Id.* at 15).
2. Q. What state do you consider yourself to be a citizen of? (*Id.* at 15-16).
3. Q. You know the Defendant in this case, Ghislaine Maxwell, true? (*Id.* at 16).
4. Other questions of a similar nature about interactions with Maxwell. (*Id.* at 16-20).
5. Epstein has a joint defense agreement and common interest agreement with Maxwell. (*Id.* at 20-21).
6. Without going into the substance of any communications that you have had, you have communicated with Maxwell since September 21st, 2015, true? (*Id.* at 26.)
7. Q. What e-mail accounts has Maxwell used in her communications with you? (*Id.* at 27).

8. Q. In June 2008, in open court, you pled guilty to two Florida State felonies, correct? (*Id.* at 28.)

9. Other similar questions relating to the state crime to which Epstein has already plead guilty. (*Id.* at 28-42).

10. Q. In fact, at that time [around 2005], Maxwell was regularly at your Palm Beach mansion, true? (*Id.* at 43.)

11. Q. Sir, isn't it true that Mas. Maxwell was running your Palm Beach mansion in 2000 [and other years]? (*Id.* at 44-47.)

12. [Following a break in the deposition] Q. Without going into the substance of any communication, who[m] did you speak to during the break? (*Id.* at 48.)

13. Q. You have millions and millions of dollars available to your disposal to satisfy any need for assistance in responding to discovery in this case, true? (*Id.* at 165.)

14. Q. How much money have you given Maxwell since 1996? (*Id.* at 166.)

15. Other similar questions regarding financial payments to or transactions with Maxwell. (*Id.* at 166-69).

16. Q. In the period 1999 to 2005, what kind of donations did you make to the Palm Beach Police Department or to any organization associated with the Palm Beach Police Department? (*Id.* at 172.)

17. Q. Please describe all dinners you've ever had with Bill Clinton. (*Id.* at 176.)

18. Q. If we wanted to serve you with legal process in the future, what would be the simplest way to do that? (*Id.* at 179.)

19. Q. Please describe all your overseas travel in the last two years. (*Id.* at 179-80.)

20. Q. It's a matter of public record that you later settled that lawsuit [filed against you by Ms. Giuffre], right? (*Id.* at 196.)

21. Q. Sir, you are [un]willing to sign an unconditional waiver allowing Virginia to turn over the settlement agreement to Maxwell, right? (*Id.* at 198).[7]

22. Q. Sir, you know Harvard Law Professor, now former law professor, Alan Dershowitz? (*Id.* at 199.)

[7] The transcript errantly uses the term "willing," but in context the term should have been recorded by the stenographer as "unwilling." In either event, the point remains that Epstein took the Fifth rather than answer this question.

23. Q. Alan Dershowitz has sent drafts of books he was writing for you to review, right? (*Id.* at 200.)

24. Q. Without discussing any particular attorney-client communications, what was the general type of legal work [Dershowitz] did for you? (*Id.* at 200.)

25. Q. When did Dershowitz first become your lawyer? (*Id.* at 201.)

26. Q. Has Dershowitz ever provided you business advice of a nonlegal nature? (*Id.* at 201-02.)

27. Q. [Shortly after December 30, 2014] Did you authorize Dershowitz to make any public statements on your behalf? (*Id.* at 204.)

28. Q. Was that [statement to the media that "He's as outraged as I am," referring to Epstein] an authorized statement on your behalf by Alan Dershowitz? (*Id.* at 206).

29. Related questions about Dershowitz's statement to the media describing a statement made by Epstein. (*Id.* at 205-06.)

30. Q. In 2000 and 2001, Dershowitz came to visit you in your New York mansion, true? (*Id.* at 206.)

31. Q. If we focus in on the years 2000 and 2001, how many times did Dershowitz visit you in your various homes? (*Id.* at 207.)

32. Q. While you were negotiating with the U.S. Attorney's Office, you were also working with [Assistant U.S. Attorneys] Menchel and Lurie to help them secure lucrative employment when they left the office, right? (*Id.* at 213.)

33. Q. Bill Clinton flew on your jet a number of times in 2002, right? (*Id.* at 219.)

34. Q. Maxwell frequently flew a helicopter in the U.S. Virgin Islands, right? (*Id.* at 221.)

35. Q. Please list every place you and Bill Clinton have ever been together. (*Id.* at 222-23.)

36. Q. Please describe all of your interactions with the Clinton Foundation. (*Id.* at 225.)

37. Q. Sir, you've made no effort to collect any of the documents requested here [in the subpoena for the deposition], right? (*Id.* at 227.)

38. Q. It would not be burdensome for you to search for any of these documents [requested in the deposition subpoena], would it? (*Id.* at 228.)

39. Q. I want to direct your attention to the item 13, which requests all -- . . .telephone records associated with you, including cell phone records, from 1999 to present that show[] communications with Maxwell, Ghislaine Maxwell. You've taken no steps to secure those documents, right? (*Id.* at 229.)

40. Q. You have seen Ms. Maxwell commit crimes, right? (*Id.* at 231.)

41. Q. When Rodriguez was describing Maxwell's involvement with underage girls, your attorneys had an interest in attacking that testimony, right? (*Id.* at 254.)

42. Q. In fact, Maxwell has been a partner with you in several of your business enterprises, right? (*Id.* at 264.)

43. Q. You hope that Maxwell prevails in this litigation, right? (*Id.* at 265.)

44. Q. In fact, you and your attorney actually got together on the phone with Virginia in about 2007, right? (*Id.* at 269-70.)

45. Q. Which of your attorneys was on the phone with Virginia in about 2007? (*Id.* at 270.)

46. Q. This litigation will affect the reputation of associates of yours, won't it? (*Id.* at 333.)

47. Q. In fact, as a pragmatic matter, you are essentially a Defendant in this action, right? (*Id.* at 335.)

48. Q. Please describe the way yours and Maxwell's business affairs are intertwined currently. (*Id.* at 338.)

49. Q. What is your arrangement with Ms. Maxwell with regard to paying any . . . judgment that might be reached against her in this case? (*Id.* at 370.)

It is up to Epstein to show that each of these questions that he refused to answer posed a substantial risk of self-incrimination. Moreover, if Epstein can provide even some information in answer to the question without incriminating himself, he must provide that partial answer. *See, e.g.*, *Nat'l Day Laborer Org. Network v. U.S. Immigration & Customs Enf't Agency*, 811 F. Supp. 2d 713, 740 (S.D.N.Y. 2011), *amended on reconsideration* (Aug. 8, 2011) (discussing

documents "redacted to different degrees" to provide information without violating privilege); *Jones v. B. C. Christopher & Co.*, 466 F. Supp. 213, 223 (D. Kan. 1979) (noting that witness "may make partial answers and stop when he believes further comment would incriminate him"). A "witness is not exonerated from answering merely because he declares that in so doing he would incriminate himself; his say-so does not of itself establish the hazard of incrimination." *Martin-Trigona v. Gouletas*, 634 F.2d 354, 360 (7th Cir. 1980). Because Epstein cannot establish the hazard of incrimination with respect to each of the questions above, the Court should compel him to answer each of these questions (and permit counsel to ask reasonable follow-up questions in the same vein).

III. EPSTEIN SHOULD BE COMPELLED TO ANSWER QUESTIONS ABOUT MAXWELL'S INVOLVEMENT WITH FEMALES IN FOREIGN COUNTRIES.

Epstein should also be compelled to answer questions about Maxwell's involvement with females in foreign countries. The Supreme Court has made very clear that a witness may not invoke a Fifth Amendment privilege to refuse to answer questions that pose a risk of prosecution in foreign countries. *United States v. Balsys*, 524 U.S. 666 (1998). The Court reasoned that the Fifth Amendment creates rights only against the federal government (and, via incorporation through the Fourteenth Amendment, against state governments). *Id.* at 672-74. As a result, any argument that the Fifth Amendment has extra-territorial application has been foreclosed. *Valenzuela v. United States*, 286 F.3d 1223, 1229 (11th Cir. 2002).

In light of this controlling legal authority, Ms. Giuffre asked Epstein a series of very narrow and specific questions about purely foreign activities. The questions began with the limitation that Epstein was "to understand that the next series of questions we'll be dealing just with your actions in England, not with any of your actions in the United States." Epstein Depo. Tr. at 140. Epstein was then asked a series of questions – including a number of questions

involving "English females." This limitation is important because Epstein may seek to invoke a Fifth Amendment privilege with regard to his trafficking of American girls into England. *See, e.g.*, 18 U.S.C. § 2421(a). But no such trafficking concerns exist with regard to females already located in England.

For these reasons, Ms. Giuffre is entitled to force Epstein to disclose even *his* activities with foreign females in foreign countries. But in this motion, Ms. Giuffre does not go so far. Instead, she moves the Court to compel answers to a much narrower set of questions – specifically, Maxwell's interactions with females overseas in specific countries. The specific questions Ms. Giuffre moves to compel Epstein to answer are:

England

1. Q. While in England, in Miss Maxwell's private residence, you observed Maxwell in the presence of English females under the age of 18, true? (*Id.*)

2. Q. While in England, Ms. Maxwell brought you English females to satisfy your sexual purposes, true? (*Id.*)

3. Q. Please describe how many times you have seen Maxwell in private locations with girls under the age of 18 in England? (*Id.* at 142)

4. Q. Based on your understanding of English criminal law, you have observed Maxwell commit English criminal offenses of a sexual nature in England, true? (*Id.*)

5. Q. Have you ever observed Maxwell commit a crime in England? (*Id.* at 143.)

6. Q. Please describe for me all the crimes you have seen Maxwell commit in England. (*Id.* at 144.)

7. Q. Please describe Maxwell's interactions in England with females under the age of 18. (*Id.* at 144.)

France

8. Q. Maxwell has frequently been to your apartment in Paris, France, true? (*Id.* at 153.)

Thailand

9. Q. You saw Maxwell in the presence of Thai females under the age of 18 in Thailand, true? (*Id.* at 155.)

Brunei

10. Q. In 2002, you flew to Brunei with Maxwell on your private jet, true? (*Id.* at 157.)

11. Q. Are you aware of . . . interaction by Maxwell with women in Brunei? (*Id.* at 159.)Q. Are you aware of any interaction by Maxwell with girls under the age of 18 in Brunei? (*Id.*)

12. Q. Please describe all the interactions you saw between Maxwell and girls from Brunei in Brunei. (*Id.*)

Czech Republic/Czechoslavakia

13. Q. Was Maxwell ever with you when you were in the presence of girls under the age of 18 in the Czech Republic? (*Id.* at 161.)

14. Q. Has Maxwell ever interacted with minor girls from the former country known as Czechoslovakia? (Id. at 163.)

Other Countries

15. Q. Please name all of the countries, not including the United States, where you have seen Maxwell in the presence of females who lived in those countries under the age of 18. (*Id.* at 162.)

16. Q. Please describe for me Maxwell's sexual interactions with females under the age of 18 in foreign countries with citizens of those countries. (*Id.* at 162.)

17. Q. Has Maxwell ever interacted with females under the age of 18 in foreign countries? (*Id.* at 162-63.)

18. Q. Based on your understanding of the criminal laws of other countries, has Maxwell ever committed a crime of a sexual nature in another country? (*Id.* at 164.)

19. Q. Please describe all the crimes of a sexual nature that you understand Maxwell has committed foreign countries. (*Id.* at 164.)

20. Q. Epstein cannot claim a realistic risk of incriminating himself by discussing these specific events regarding *Maxwell*.

CONCLUSION

For the reasons set forth above, plaintiff, Virginia Giuffre, respectfully requests that the Court grant her Motion to Compel and direct Jeffrey Epstein to: (1) produce the documents that he has been subpoenaed to produce (or, at the very least, produce a privilege log for each of the categories for which documents are sought); (2) answer the specific, identified questions identified in Section II above (and reasonable follow up questions) that pose no substantial and real risk of incrimination; and (3) answer specific questions about Maxwell's interactions with females in other countries (and reasonable follow up questions), as identified in Section III above.

Dated: September 20, 2016

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of September, 2016, I served the foregoing document this day on the individuals identified below via email:

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ADDENDUM A

United States District Court
Southern District Of New York

----------X

Virginia L. Giuffre,

Plaintiff,

v.

Ghislaine Maxwell,

Defendant.

----------X

DATE FILED: 3/18/16

15-cv-07433-RWS

PROTECTIVE ORDER

Upon a showing of good cause in support of the entry of a protective order to protect the discovery and dissemination of confidential information or information which will improperly annoy, embarrass, or oppress any party, witness, or person providing discovery in this case, IT IS ORDERED:

1. This Protective Order shall apply to all documents, materials, and information, including without limitation, documents produced, answers to interrogatories, responses to requests for admission, deposition testimony, and other information disclosed pursuant to the disclosure or discovery duties created by the Federal Rules of Civil Procedure.

2. As used in this Protective Order, "document" is defined as provided in FED.R.CIV.P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term.

3. Information designated "CONFIDENTIAL" shall be information that is confidential and implicates common law and statutory privacy interests of (a) plaintiff Virginia Roberts Giuffre and (b) defendant Ghislaine Maxwell.

4. CONFIDENTIAL information shall not be disclosed or used for any purpose except the preparation and trial of this case.

5. CONFIDENTIAL documents, materials, and/or information (collectively "CONFIDENTIAL INFORMATION") shall not, without the consent of the party producing it or further Order of the Court, be disclosed *except that* such information may be disclosed to:

   a. attorneys actively working on this case;

   b. persons regularly employed or associated with the attorneys actively working on this case whose assistance is required by said attorneys in the preparation for trial, at trial, or at other proceedings in this case;

   c. the parties;

   d. expert witnesses and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial or other proceedings in this case;

   e. the Court and its employees ("Court Personnel") in this case;

   f. stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this action;

   g. deponents, witnesses, or potential witnesses; and

h. other persons by written agreement of the parties.

6. Prior to disclosing any CONFIDENTIAL INFORMATION to any person listed above (other than counsel, persons employed by counsel, Court Personnel and stenographic reporters), counsel shall provide such person with a copy of this Protective Order and obtain from such person a written acknowledgment stating that he or she has read this Protective Order and agrees to be bound by its provisions. All such acknowledgments shall be retained by counsel and shall be subject to *in camera* review by the Court if good cause for review is demonstrated by opposing counsel.

7. Documents are designated as CONFIDENTIAL by placing or affixing on them (in a manner that will not interfere with their legibility) the following or other appropriate notice: "CONFIDENTIAL." Discovery material designated CONFIDENTIAL shall be identified by Bates number. To the extent practical, the respective legend shall be placed near the Bates number.

8. Designation of a document as CONFIDENTIAL INFORMATION shall constitute a representation that such document has been reviewed by an attorney for the designating party, that there is a valid and good faith basis for such designation, made at the time of disclosure or production to the receiving party, and that disclosure of such information to persons other than those permitted access to such material would cause a privacy harm to the designating party.

9. Whenever a deposition involves the disclosure of CONFIDENTIAL INFORMATION, the deposition or portions thereof shall be designated as CONFIDENTIAL and shall be subject to the provisions of this Protective Order. Such designation shall be made on the record during the deposition whenever possible, but a party may designate portions of depositions as CONFIDENTIAL after transcription, provided written notice of the designation is promptly given to all counsel of record within thirty (30) days after notice by the court reporter of the completion of the transcript, and until the expiration of such thirty (30) days after notice by the court reporter of the completion of the transcript, no party or counsel for any such party may share the contents of the deposition outside the limitations of this Protective Order.

10. Whenever a party seeks to file any document or material containing CONFIDENTIAL INFORMATION with the Court in this matter, it shall be accompanied by a Motion to Seal pursuant to Section 6.2 of the Electronic Case Filing Rules & Instructions for the Southern District of New York.

11. A party may object to the designation of particular CONFIDENTIAL INFORMATION by giving written notice to the party designating the disputed information. The written notice shall identify the information to which the objection is made. If the parties cannot resolve the objection within ten (10) business days after the time the notice is received, it shall be the obligation of the party designating the information as CONFIDENTIAL to file an

appropriate motion requesting that the Court determine whether the disputed information should be subject to the terms of this Protective Order. If such a motion is timely filed, the disputed information shall be treated as CONFIDENTIAL under the terms of this Protective Order until the Court rules on the motion. If the designating party fails to file such a motion within the prescribed time, the disputed information shall lose its designation as CONFIDENTIAL and shall not thereafter be treated as CONFIDENTIAL in accordance with this Protective Order. In connection with a motion filed under this provision, the party designating the information as CONFIDENTIAL shall bear the burden of establishing that good cause exists for the disputed information to be treated as CONFIDENTIAL.

12. At the conclusion of this case, unless other arrangements are agreed upon, each document and all copies thereof which have been designated as CONFIDENTIAL shall be returned to the party that designated it CONFIDENTIAL, or the parties may elect to destroy CONFIDENTIAL documents. Where the parties agree to destroy CONFIDENTIAL documents, the destroying party shall provide all parties with an affidavit confirming the destruction.

13. This Protective Order shall have no force and effect on the use of any CONFIDENTIAL INFORMATION at trial in this matter.

14. This Protective Order may be modified by the Court at any time for good cause shown following notice to all parties and an opportunity for them to be heard.

BY THE COURT

UNITED STATES DISTRICT JUDGE

3-17-16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

----------X

15-cv-07433-RWS

DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL DATA FROM DEFENDANT'S (NON-EXISTENT) UNDISCLOSED EMAIL ACCOUNT AND FOR AN ADVERSE INFERENCE INSTRUCTION

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Defendant Ghislaine Maxwell ("Ms. Maxwell") files this Response to Plaintiff's Motion To Compel Data From Defendant's (Non-Existent) Undisclosed Email Account and For an Adverse Inference Instruction and states as follow:

INTRODUCTION

Plaintiff continues in her course of re-litigating issues, multiplying these proceedings and misstating the record. In what amounts to the fourth Motion on forensic examination of Ms. Maxwell's computers and email accounts, Plaintiff now trumps up a claim that some unidentified and "undisclosed" email account should have been searched and was not. To the contrary, Ms. Maxwell has spent thousands of dollars to forensically image all of her devices, searching every account to which she has access, conducting extremely broad and over-reaching searches for the search terms Plaintiff requested and in complying with this Court's Orders. The result of these exercises proved, as Ms. Maxwell has always maintained, that all non-privileged relevant and responsive documents in her possession, custody and control had already been searched for and produced prior to the excessive and redundant briefing on these issues, resulting in no additional production. Plaintiff's Motion must be denied because no "undisclosed" email account exists and Ms. Maxwell has fully complied with this Court's Orders.

ARGUMENT

I. PLAINTIFF HAS FAILED TO CONFER UNDER RULE 37(A)(1) OR THIS COURT'S ORDER

Despite the clear requirements of Rule 37(a)(1) requiring a certificate of conferral prior to filing any motion to compel, and this Court's standing order regarding conferral on all discovery issues prior to Motions practice, the sum total of Plaintiff's stated conferral attempt is a footnote stating that a letter was sent on September 23, 2016 "inquiring about the undisclosed account" – a letter not included in the exhibits to the Motion. Ms. Maxwell has been clear that she has

searched all accounts that she can access. Had Plaintiff bothered to follow up on this alleged communication, Ms. Maxwell would have reaffirmed that there is no "undisclosed" email account. Instead, Plaintiff filed this frivolous and vexatious motion to waste both the Court and Ms. Maxwell's time and needlessly multiply these proceedings.

Courts in this district routinely deny motions based on failure to confer prior to the motion when such conferral is required by the Rules or Court Order. *Prescient Partners, L.P. v. Fieldcrest Cannon, Inc.,* No. 96 Civ. 7590 (DAB) JCF, 1998 WL 67672, at *3 (S.D.N.Y. 1998) ("Under ordinary circumstances,..., the failure to meet and confer mandates denial of a motion to compel."); *Excess Ins. Co. v. Rochdale Ins. Co.*, No. 05 CIV. 10174, 2007 WL 2900217, at *1 (S.D.N.Y. Oct. 4, 2007) (Sweet, J.) (denying motion and cross motion based on failure to confer, noting "[m]ere correspondence, absent exigent circumstances not present here, does not satisfy the requirement"); *Myers v. Andzel*, No. 06 CIV. 14420 (RWS), 2007 WL 3256865, at *1 (Sweet, J.) (S.D.N.Y. Oct. 15, 2007) (denying motion based on failure to confer).

The Court has been abundantly clear on the necessity for conferral prior to motions practice. In the March 17, 2016 hearing, the Court ordered that prior to motions practice, the parties were to set an agenda on the disputed issue in writing and have a meeting of substance prior to filing a motion. "So I would say exchange writing as to what it's going to be and have a meeting. It doesn't have to be in person, but it certainly has to be a significant meeting; it can't be just one ten-minute telephone call. So that's how I feel about the meet and confer." Tr. p. 3. As shown in the Plaintiff's motion, no such call has occurred.

Based on Plaintiff's failure to confer as required by both the Federal Rules and this Court's standing order, Ms. Maxwell requests that the Motion be denied and attorneys' fees and costs of responding be awarded to Ms. Maxwell.

II. MS. MAXWELL HAS DISCLOSED AND SEARCHED ALL EMAIL ACCOUNTS

a. All Devices Have Been Forensically Searched for Responsive Emails

As requested by Plaintiff and Ordered by the Court, Ms. Maxwell's computer and all of her electronic devices have been forensically imaged, searched for the search terms requested by Plaintiff, and all responsive documents produced. This expensive, costly and time consuming exercise in futility simply confirmed that all responsive documents, including all responsive emails, were produced in March and April 2016.

Most significantly, the devices were searched for all emails—whether saved or deleted – and irrespective of which account they came from; not a single responsive email was located from any Mindspring account and no emails were located from Earthlink or any other secret, hidden, "undisclosed" email account, as Plaintiff speculates must exist.

b. The MindSpring account

The first two accounts discussed in the Motion have already been fully discussed in prior briefings and at length in conferral conferences.[1] *See* DE 320. In addition to the search of Ms. Maxwell's computer and devices, the first account, [redacted] was forensically searched on its server using the search terms proposed by Defendants and as required by the Court. The search uncovered no responsive documents from any time period. *See* DE 320. This included both emails in the account, deleted emails, and any other information relating to the account retained on the MindSpring server. There can simply be no claim for an adverse inference where Plaintiff has already received exactly what she requested – a forensic search of the account for her own defined terms. It resulted in nothing.

[1] Plaintiff conveniently omits the fact that the EarthLink and MindSpring accounts were in an address book purportedly recovered from Mr. Epstein's home by the Palm Beach Police in 2005. Thus, there is no indication or inference that either of these accounts were created or used in the 2000 to 2002 time frame as Plaintiff claims.

c. The EarthLink account

The second account, [redacted], is, as Ms. Maxwell has repeatedly explained to Plaintiff's counsel, an account that she does not recognize, that she does not recall having ever logged onto, and for which she has no password. *See* DE 320. Ms. Maxwell tried every avenue available online through EarthLink to reset the password or otherwise access the account. In fact, when one attempts to recover a password for that account, the system states "The email address you entered is not an EarthLink email address or ID." According to *Plaintiff*, such a message means the account has been permanently deleted by the host company. Plaintiff's counsel, Meredith Shultz, wrote on May 17, 2016, regarding an account of Plaintiff's (that she claims she cannot access but for which relevant and responsive emails were located on her computer):

> "Regarding her live.com address, it appears that the account has been permanently deleted by the host Company. One method of telling if an account still exists for live.com (**and for most web mail systems)** is to perform an account password recovery. When you enter the e-mail address and enter the captca code and hit Next, the website states that it does not recognize the email address. This means that the account has been permanently deleted from live.com's system."

Menninger Decl., Ex. A.

Plaintiff does not, and cannot, explain why she thinks that her own live.com email address has been permanently deleted by the host company, yet based on the exact same set of data, she thinks that an email account that Ms. Maxwell does not recall ever using (and from which no documents exist on her devices) from Earthlink still remains on its system. If there is some way to access the account, Plaintiff hasn't said what it is. Ms. Maxwell simply has no way to access this account and has no information, save Plaintiff's rank speculation.[2]

[2] Plaintiff has an account from which actual documents *have* been produced – proving she did use the account (unlike Ms. Maxwell's EarthLink account) and it contains relevant information. Yet Plaintiff claims she

Because Plaintiff claimed she cannot access her Microsoft account, Ms. Maxwell subpoenaed Microsoft for the documents. Plaintiff moved to quash the subpoena to obtain the information contained in the account and has refused to sign the release provided to her that would allow the production of that information under the terms of a subpoena issued to Microsoft. Menninger Decl,. Ex. B. Tellingly, Plaintiff did not issue a subpoena to EarthLink regarding this account to see if it existed, has content or could be accessed. Instead, she seeks the drastic and improper sanction of an adverse inference knowing that it is far more beneficial to her than actually receiving information from EarthLink which would reveal nothing exists.

d. There is no "Undisclosed" Account

Plaintiff next argues that she is entitled to an adverse inference based on the failure to search a phantom e-mail account that she presumes (without support and based on pure speculation) must have existed, which she has never asked about in discovery, claiming that such an account was improperly "undisclosed" and not searched. Plaintiff bases her absurd argument on statistics suggesting that someone like Ms. Maxwell "likely" had an email account in the 2000 to 2002 timeframe and a specious claim that Ms. Maxwell has never *denied* having an email account from 2000 to 2002. Motion at 2. Notably absent from the Motion is a single interrogatory, request for admission, or deposition question in which Ms. Maxwell was asked to provide all email addresses she has used *or* asked if she ever had an email account in 2000 to 2002. No such question was ever posed to Ms. Maxwell on this issue.[3] How could she possibly deny the existence of an account when she was never asked the question?

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cannot access her Microsoft account because she does not remember the password and does not have sufficient personal information to provide to gain access to the account. DE 207; DE 441. This is not dissimilar to Ms. Maxwell who does not even remember the account let alone the password.

[3] By contrast, Ms. Maxwell requested that Plaintiff identify all email and social media accounts which she had used since 1998. Plaintiff provided false information, and purposefully omitted accounts that have since been discovered, one of which Plaintiff still has failed to forensically search and disclose its responsive documents.

Plaintiff asks this Court to infer the existence of an undisclosed "email" account for Ms. Maxwell in the 2000-2002 timeframe based on witness accounts that Jeffrey Epstein had a "messaging system" on a private server. Of course, there is a big difference between having a private email account (gmail, aol, yahoo, etc.) and communicating through a private messaging system on an employer's sever, as described by Mr. Alessi ("It was a server. I think it was --the office would have, like, a message system between him, the houses, the employees, his friends. They would write a message on the computer. **There was no email at that time.**").[4] To the extent there was a private messaging system used by Mr. Epstein's household employees maintained on a private server by Mr. Epstein, information from that system is not available to Ms. Maxwell. Ms. Maxwell has not been employed by Mr. Epstein for over 10 years and has not had any access to Mr. Epstein's server through Citrix or otherwise since at least the end of her employment with him.

"Whether a party subject to a document request can be compelled to comply depends on two preliminary questions: (1) assuming the requested documents exist, does the party have possession, custody or control over them, and (2) if the party has such possession, custody or control, can the party be compelled to conduct a reasonable search for and, if found, to produce the documents." *Gross v. Lunduski*, 304 F.R.D. 136, 142 (W.D.N.Y. 2014). Ms. Maxwell is not in the possession, custody or control of the server or any information it may contain. "Where

[4] It appears this is what was also being described by Mr. Banasiak in the deposition from another case, a full copy of which has never been produced in this litigation. Indeed, Mr. Banasiak has not been identified as a person with relevant or discoverable information in any of the last three of Plaintiff's Rule 26 Disclosures. In the cited testimony, Mr. Banasiak appears to have discussed accessing a private messaging system maintained on Mr. Epstein's private server using Citrix, a program that allows such access to authorized users. Because Plaintiff has failed to disclose the transcript being quoted, Ms. Maxwell cannot fully decipher the obviously edited testimony quoted in the Motion, does not know what timeframe Mr. Banasiak was referring to regarding the computers or using Citrix, and cannot respond to the claims made regarding the nature of any inference that could be drawn from Mr. Banasiak's selected testimony. The entire argument and reference to the transcript must be ignored and stricken based on Plaintiff's failure to produce in discovery the transcript she relies on.

control is contested, the party seeking production of documents bears the burden of establishing the opposing party's control over those documents." *Alexander Interactive, Inc. v. Adorama, Inc.*, No. 12 CIV. 6608 (PKC) (JCF), 2014 WL 61472, at *3 (S.D.N.Y. Jan. 6, 2014). Plaintiff has made no showing that Ms. Maxwell has any control over the hypothetical documents she suspects may be on Mr. Epstein's private server. As has been made clear by Mr. Epstein's refusal to produce any documents in this matter or provide any testimony, instead invoking his Fifth Amendment privilege, there is no manner in which Ms. Maxwell could require Mr. Epstein to provide any information on Mr. Epstein's private server. Notably, no such "messages" were located on any of Ms. Maxwell's devices or within her email accounts.

Simply put, there are no emails from any accounts, systems or electronic storage devices over which Ms. Maxwell has possession, custody or control that have not been searched and from which responsive non-privileged documents produced.

III. SANCTIONS AGAINST MS. MAXWELL NOT WARRANTED, RATHER COSTS OUGHT TO BE AWARDED TO HER

Plaintiff completely fails to identify which, if any, of the Rules of Civil Procedure she relies on to claim any right to request sanctions, let alone to receive an adverse inference instruction. The argument appears premised on a claim that Ms. Maxwell has not complied with the Court's Order – a completely inaccurate claim:

> On June 20, 2016, this Court ordered:
>
> > Defendant is ordered to collect all ESI by imaging her computers and collecting all email and text messages on any devices ***in Defendant's possession or to which she has access*** that Defendant used between the period of 2002 to present. Defendant is further directed to run mutually- agreed upon search terms related to Plaintiff's requests for production over the aforementioned ESI and produce responsive documents within 21 days of distribution of this opinion.

This was done. Plaintiff then expanded her request, imposed additional search terms, and added conditions concerning the manner in which she wanted devices searched. On August 9,

2016, the Court entered an Order adopting Plaintiff's expanded request and methodology. All accessible email accounts and devices, including deleted files and emails, were searched – again – at significant expense. Again, no additional non-privileged responsive documents were located. There is no non-compliance and no basis for any sanctions, let alone the draconian sanction of an adverse inference.

a. Plaintiff Fails to Identify or Prove the Factors Required for Sanctions Based on Alleged Violation of a Court Order

Absent from Plaintiff's motion is the actual legal standard required for imposition of sanctions, and certainly no argument or citation exist in this case to carry the burden of establishing the factors. In light of the fact that Ms. Maxwell has complied, Plaintiff has failed to demonstrate the minimum hurdle for any sanction. Thus, the factors are not addressed here, nor can they be addressed on Reply. What is clear is that the sanction of an adverse inference is not identified as a sanction that should or could be considered under the rules concerning the failure to comply with a Court Order. *See* Fed. R. Civ. P. 37(b)(2)(A).

b. Controlling Law Prohibits an Adverse Inference Instruction

An adverse inference instruction is considered an "extreme sanction" that "should not be given lightly." *Zubulake v. UBS Warburg LLC,* 220 F.R.D. 212, 220 (S.D.N.Y. 2003). More importantly Plaintiff completely ignores the 2015 changes to Fed. R. Civ. P 37(e)(2), which now permits an adverse inference instruction only when the court finds that a spoliating party purposefully and willfully destroys evidence and that party "acted with the intent to deprive another party of the information's use in the litigation." Fed. R. Civ. P. 37(e)(2). The new Rule 37 "rejects cases such as *Residential Funding Corp. v. DeGeorge Financial Corp*., 306 F.3d 99

(2d Cir. 2002)[5], that authorize the giving of adverse-inference instructions on a finding of negligence or gross negligence." Fed. R. Civ. P. 37(e)(2) Advisory Committee's Note to 2015 Amendment; *see also Thomas v. Butkiewicus*, No. 3:13-CV-747 (JCH), 2016 WL 1718368, at *7 (D. Conn. Apr. 29, 2016) (recognizing abrogation of *Residential Funding*). There is no claim of spoliation – no information has been lost or destroyed since the threat or initiation of litigation when there would have been a duty to preserve. There is no bad faith. Ms. Maxwell has completely complied with all Court Orders and there are no accessible accounts or electronic devices that have not been searched.

i. *The cases cited by Plaintiff are not the controlling standards, and Plaintiff fails to establish the elements required for an adverse inference*

Plaintiff relies heavily on her previously briefed motion requesting an adverse inference relying on factors in a single case, *Residential Funding Corp. v. DeGeorge Financial Corp.*, 306 F.3d 99, 108 (2nd Cir. 2002). This case sets forth the standard for an adverse inference based on the inherent powers of the Court (not under Rule 37(b)) where the party failed to produce relevant documents prior to the commencement of trial. *Id.* ("where, as here, an adverse inference instruction is sought on ***the basis that the evidence was not produced in time for use at trial***, the party seeking the instruction must show (1) that the party having control over the evidence had an obligation to timely produce it; (2) that the party that failed to timely produce the evidence had "a culpable state of mind"; and (3) that the missing evidence is "relevant" to the party's claim or defense such that a reasonable trier of fact could find that it would support that claim or defense"). By contrast, however, courts have repeatedly noted that an adverse inference, and application of the *Residential Funding* test, are not appropriate for a mere delay in production, especially when all documents are produced prior to depositions and trial. *See*

[5] This is the primary case relied on by Plaintiff in support of both of her Motions for an adverse inference.

Psihoyos v. John Wiley & Sons, Inc., No. 11CV01416, 2012 WL 3601087 (S.D.N.Y. June 22, 2012) (refusing to grant adverse inference instruction where Plaintiff did not confer to obtain requested discovery, and noting "Plaintiff does not cite to a single case where an adverse inference instruction was ordered based on the late production of a document").[6] Here, there was no delay in production – there was and is nothing additional to produce. All documents were produced well in advance of trial, prohibiting an adverse inference.

Even if the *Residential Funding* factors were applicable, Plaintiff fails to carry her burden of proving those factors are present in this case. Defendant does not contest that she is obligated to comply with this Court's Orders. She has done so. She has collected all of her electronically stored information, and run all agreed upon search terms – and then re-run the searches when Plaintiff further expanded her demands. The result of the application of these search terms is proof that she has been compliant with her discovery obligations all along. No new non-privileged documents were captured through utilization of the process demanded by Plaintiff. As Ms. Maxwell previously stated in response to the Motion for forensic examination, she had run comprehensive search terms, thoroughly reviewed her records and previously produced all responsive documents in her possession.[7]

The second factor, that "the party that failed to timely produce the evidence had 'a culpable state of mind'" is likewise lacking. There is no claim of Defendant acting with a

[6] *See also Phoenix Four, Inc.,* No. 05 CIV. 4837(HB), 2006 WL 1409413, at *7 (S.D.N.Y. May 23, 2006) (holding that a sanction as severe as an adverse inference was not warranted where defendants came forward with the evidence, even though it was after the close of discovery); *Williams v. Saint–Gobain Corp.,* No. 00 Civ. 502, 2002 WL 1477618, at *2 (W.D.N.Y. June 28, 2002) (holding that no basis for adverse inference instruction existed where defendant failed to produce emails until the eve of trial and there was no evidence of bad faith); *In re A & M Florida Properties II, LLC*, No. 09-15173 (AJG), 2010 WL 1418861, at *6 (Bankr. S.D.N.Y. Apr. 7, 2010) (declining to impose adverse inference instruction where documents were belatedly produced, but there was no bad faith).

[7] Plaintiff's argument that she has been or will be prejudiced is illogical given that there are no documents that have not been produced, and there never have been any responsive documents missing from production.

culpable state of mind, nor is any argued. How can one have a culpable state of mind where there are no additional accounts to search or documents to be produced?

Finally, and perhaps most importantly, Plaintiff fails to provide a shred of evidence that "the missing evidence is 'relevant' to the party's claim or defense such that a reasonable trier of fact could find that it would support that claim or defense." *Residential Funding Corp.*, 306 F.3d at 108. As discussed, completion of the multiple levels of forensic searches resulted in no responsive non-privileged documents. The hypothetical "undisclosed" email account does not exist. There can simply be no claim that there are any "missing" documents, let alone that they are relevant to Plaintiff's claims or defenses. *Giarrizzo v. Holder*, No. 07-CV-0801 MAD/GHL, 2012 WL 716189, at *3 (N.D.N.Y. Mar. 5, 2012) (refusing request for adverse inference where Plaintiff failed to demonstrate relevance prong stating "Plaintiff only identifies the alleged missing documents and speculates, without proof, that the documents support his claim. Indeed, plaintiff has not proven that the aforementioned documents exist"); *Sovulj v. United States*, No. 98 CV 5550FBRML, 2005 WL 2290495, at *5 (E.D.N.Y. Sept. 20, 2005) (plaintiff could not meet the requirements for obtaining an adverse inference because assertion that missing evidence was relevant was pure speculation); *see also Orbit One Commc'ns, Inc. v. Numerex Corp.*, 271 F.R.D. 429, 439 (S.D.N.Y. 2010) (collecting spoliation cases holding that an adverse inference is inappropriate without proof beyond mere speculation allegedly lost information was relevant). "Without proof that defendant's actions, 'created an unfair evidentiary imbalance, an adverse inference charge is not warranted.'" *Giarrizzo*, 2012 WL 716189, at *2 (*citing Richard Green (Fine Paintings) v. McClendon*, 262 F.R.D. 284, 291 (S.D.N.Y. 2009)). Here, Plaintiff cannot demonstrate that there *is any* missing or non-produced information. She hypothecates a non-existent email account and speculates that it must have discoverable relevant evidence. She has

made no attempt to provide any proof or even proffer of relevance beyond mere speculation. Thus, an adverse inference is impermissible.

ii. *Ms. Maxwell has never deleted any relevant emails*

Ms. Maxwell has never "admitted" to deleting any emails that 1) might have any relevance to this case, or 2) after she was under a preservation obligation.[8] Rather, she has a regular practice of deleting spam emails, as do most people. Specifically, she testified:

> A. I have not deleted anything that you have asked me for in discovery. I have given you everything that I have.

[8] By contrast, Plaintiff admits that in 2013 while she was in the process of trying to implead herself into the CVRA case and under a preservation obligation, she and her husband had a bonfire and purposefully burned her journal that she had kept for years containing relevant information. Specifically, she testified;

> Q. The booklet that you gave pages from to Ms. Churcher where is that booklet?
> A. Burned.
> Q. When did you burn it?
> A. In, I think it was 2013. Me and my husband had a bonfire.
> Q. What did you put in the bonfire?
> A. Any kind of memories that I had written down about all the stuff going on.
> Q. Had you written anything about Professor Dershowitz?
> A. He could have been there, yes.
> Q. And you burned that?
> A. I wanted to burn my memories. I wanted to get rid of it. It was very painful stuff.
> Q. Other than what you had written down did you burn anything else? I don't mean the wood, when you talk about burning your memories, what were you burning?
> A. I was burning like memories, thoughts, dreams that I had, just everything that was kind of 1 affiliated with the abuse I endured, and there was a lot of it in there. My husband is pretty spiritual so he said the best thing to do would be burn them.
> Q. Is there anything you decided to keep and not burn?
> A. Just the photographs.
> Q. Anything else that you can think of?
> A. Photographs, that's it.
> . . .
> Q. Did you ever look to see if you had any personal notes in your writing that pertain to Professor Dershowitz?
> A. Like from my old journal, the one that I burned?
> Q. From anywhere. Did you ever make an effort to look?
> A. Dershowitz could have been in my journal, he could have been. We're talking about an 85 page, if not more, you know, things that I had written to get my story out of my head and into pages; and yes, Dershowitz could have been in there, but that's up in the clouds now, bonfire.
> Q. That's what you call your journals, what you burned, right?
> A. Yes.
> Q. And you wrote that journal in order to collect your thoughts?
> A. To get everything out of here and on to paper.

Menninger Decl., Ex. D at 64-65; 194-21.

Q. That is not my question, my question is, did you ever delete emails in January of 2015?
A. In the normal course of my work, there are emails from spam that I delete. That is the type of email I've deleted. Anything that is material to what you want, I have not deleted.
Q. How do you know that?
A. Well, anybody that's to do with Jeffrey or Alan or women or anything of which I know you were interested in, of which I have anything I would not have done because I don't want to subject myself to... [cut off by Plaintiff's counsel]

Menninger Decl., Ex. C at 370.

This Court permitted the forensic examination of all on Ms. Maxwell's electronic devices to ensure that there were no deleted emails or files that might contain relevant information. In that forensic examination, the entire devices and accounts were searched, including all deleted emails and files. Again, as stated, no relevant non-privileged documents resulted from this extensive and exhaustive examination. Plaintiff received the relief that she requested – a forensic examination – to ensure that no information had been lost or destroyed. It has not. Plaintiff cannot now claim that the non-existent hypothetical emails she suspected existed can form the basis for the severe and improper sanction of an adverse inference.

CONCLUSION

Plaintiff has now litigated this issue on four separate occasions, received a complete and exhaustive forensic examination, and the result is exactly what Ms. Maxwell has always contended – there is no relevant non-privileged information that was not originally produced. Having failed to find the smoking gun – because there is none – Plaintiff now weaves a convoluted argument attempting to get an adverse inference instruction because she cannot prove her case based on the actual law and facts. Such an inference is contrary to law, the rules of evidence, and the very notion of a fair trial. It is impermissible and must be denied.

WHEREFORE, Defendant Ghislaine Maxwell request that this Court 1) **DENY** Plaintiff's Motion To Compel Data From Defendant's Undisclosed Email Account and For an

Adverse Inference Instruction, and 2) for attorneys' fees and costs associated with responding to this Motion pursuant to 37(a)(5)(B), and such other and further relief as this Court deems just.

Dated: October 24, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 24, 2016, I electronically served this *Defendant's Response to Plaintiff's Motion to Compel Data from Defendant's (Non-Existent) Undisclosed Email Account and for an Adverse Inference Instruction* via ECF on the following:

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

----------X

15-cv-07433-RWS

DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO REOPEN DEFENDANT'S DEPOSTION

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Defendant Ghislaine Maxwell ("Ms. Maxwell") files this Response to Plaintiff's Motion to Reopen Defendant's Deposition, and states as follows:

INTRODUCTION

Plaintiff comes to this Court – for the third time – seeking to reopen the deposition of Ms. Maxwell based on the production of two innocuous documents which she received more than two months ago on August 16, 2016. Ms. Maxwell has twice sat for deposition, approaching 13 hours on the record, far more than the presumptive 7 hour limit under the Federal Rules. During that time, Plaintiff has had a full and fair opportunity to depose Ms. Maxwell on the subject matters she claims are raised by these two emails, and Plaintiff did in fact question Ms. Maxwell on the subjects covered by the emails. Moreover, despite having access to other email communications that are similar in nature and substance to the two email communications Plaintiff now claims are "key" documents, Plaintiff elected to *not* examine Ms. Maxwell on those similar documents for the purposes she now claims necessitate reopening the deposition. The deposition questions Plaintiff proposes are cumulative, duplicative and Plaintiff had the opportunity to and did obtain the information from other sources making a third deposition of Ms. Maxwell improper.

LEGAL STANDARD

"A person who has previously been deposed in a matter may be deposed again, but only with leave of the court." *Sentry Ins. v. Brand Mgmt. Inc.,* No. 10 Civ. 347, 2012 WL 3288178, at *8 (E.D.N.Y. Aug. 10, 2012) (citing Fed.R.Civ.P. 30(a)(2)(A)(ii)). "Leave should be granted to the extent that doing so is consistent with the factors set forth in Rule 26(b)(2), such as 'whether the second deposition of the witness would be unnecessarily cumulative, whether the party requesting the deposition has had other opportunities to obtain the same information, and whether the burden of a second deposition outweighs its potential benefit.'" *Id.* (quoting *Ganci,*

2011 WL 4407461, at *2) (collecting cases); *Exp.-Imp. Bank of the U.S. v. Asia Pulp & Paper Co.*, 232 F.R.D. 103, 112 (S.D.N.Y. 2005) (same); *see also Dash v. Seagate Tech. (US) Holdings, Inc.*, No. CV 13-6329 LDW AKT, 2015 WL 4257329, at *6 (E.D.N.Y. July 14, 2015) (refusing to reopen deposition where party neglected to or affirmatively opted not to inquire about information available at prior deposition and had or could obtain the information through other discovery devices).

Here, Plaintiff's sole justification for an extraordinary *third* deposition are two irrelevant documents that are cumulative of information previously produced, covering topics on which Ms. Maxwell already has been deposed at length, relating to lines of inquiry covered in other written discovery that have been fully responded to, making reopening the deposition cumulative and duplicative. Moreover, Ms. Maxwell has offered to provide responses to specific questions in writing (despite the fact that discovery has closed) which is the least burdensome and less expensive means of obtaining responses to the limited inquiry proposed regarding the two documents.

ARGUMENT

A. The Motion is Untimely

Pursuant to the Initial Scheduling Order entered in this matter, motions on discovery issues would not be considered after the date scheduled for disclosure of expert witnesses absent "showing of special circumstances." *See* DE 13, ¶ 2. By agreement of the parties and with approval of the court, that deadline was modified and occurred on September 8, 2016. No special circumstances exist to permit this additional discovery, well after the close of discovery on July 31, 2016. Plaintiff had the documents at issue in advance of September 8, 2016 and could have moved at any time between August 16, 2016 and September 8, but chose not to do so.

The Motion is untimely and no special circumstance exists, nor have any been claimed, requiring denial of the motion.

B. November 2015 Communication from Mr. Gow Concerning a Press Inquiry is Cumulative and Duplicative of Prior Discovery and Irrelevant to the Claimed Questions

Plaintiff's claim regarding the relevance of the Gow email is perplexing. It is a single line email *from* Gow *to* Ms. Maxwell to which Ms. Maxwell never responded. Plaintiff correctly points out that Ms. Maxwell's response is not included *precisely because she did not respond*. The email does not, as Plaintiff suggests, demonstrate that Ms. Maxwell was "in fact, involved in, and consulted about, what her press agent says on her behalf." Rather, it shows she did not respond to an inquiry for comment.

Plaintiff's Motion itself proves that Ms. Maxwell has already fully submitted to numerous discovery requests concerning whether she was "involved in, and consulted about" press communications issued by Mr. Gow, including Mr. Gow's January 2, 2015 email to the press that forms the basis of this lawsuit. Indeed, the question has been asked and answered in every conceivable form of discovery under the Federal Rules. She has answered a specific Request for Admissions on the issue, stating:

> Maxwell admits that she has worked with Mr. Gow on occasion for several years and that she has corresponded with Mr. Gow regarding communications to members of the British press to reserve her right to seek redress for their repetition of defamatory statements about Ms. Maxwell.

See McCawley Decl., Ex. 3, Defendant's Responses to Plaintiff's Requests for Admission at 3.

Likewise, Plaintiff extensively questioned Ms. Maxwell in her depositions about her involvement and communications with Mr. Gow regarding press inquiries, all of which makes clear that the alleged "defamatory" statement at issue was composed by Mr. Gow and Ms. Maxwell's counsel Philip Barden and issued at the advice of counsel based on the requirements

of British law. This is evidenced by the deposition testimony cited by Plaintiff (McCawley Decl., Ex. 2), as well as multiple additional pages of testimony that Plaintiff conveniently ignores. Ms. Maxwell clearly testified on this issue during her deposition (Menninger Decl., Ex. A at 272-274):

> Q. I provided you with and I'm sorry, I don't know all the numbers, but the statement that was issued by Ross Gow that should be a single page still in your stack 4 of exhibits there.
>
> MR. PAGLIUCA: Exhibit 10.
>
> Q. Did you authorize Ross Gow to issue that statement on your behalf in January of 2015?
>
> A. I already testified that that was done by my lawyers.
>
> Q. So did you authorize your lawyers to issue a statement on your behalf through Ross Gow in January of 2015?
>
> A. It was determined that I had to make a statement in the United Kingdom because of the appalling lies and I just thought of some new ones. Virginia's statement that I celebrated her 16 birthday with her. We can all agree that that's entirely impossible. I didn't meet her until she was 17 and other lies she perpetrated that she had a diary and we all know is a complete fake. That's not a diary. It was just a book she was writing that you helped sell to the press, as if it was a diary, when it was just a story that she is writing of fiction, fictional story for money.
>
> Q. How did you arrive at the words that were put in that statement?
>
> MR. PAGLIUCA: I'm going to object and instruct you to the extent this calls for any privileged communications between yourself and Mr. Barden or another lawyer representing you, we're asserting privilege. If you can answer that without that, feel free to answer.
>
> Q. So what your counsel is saying, and I will exclude any privileged communications you had with your lawyers. The question is, how did you arrive at the words that were put in that statement, if you can tell me without disclosing privileged communications?
>
> A. I'm not sure that I can.

She was questioned for a third time on the same subject, again answering fully to all non-privileged information (Menninger Decl., Ex. A at 360-363).

> I will mark this as Maxwell 17.

Q. This is an email from you on January 10, 2015 to Philip Barden and Ross Gow. The statement you had before you earlier, that, if you can pull that in front of you, the one page press release that you gave. You might know from memory. Was the press release that you issued with the statement about Virginia issued in or around January 2, 2015?

A. As best as I can recollect.

Q. I want to turn your attention to the document I just handed you which is Bates No. 001044, from you to Philip Barden and Ross Gow. It says in the first sentence, I'm out of my depth to understand defamation, other legal hazards and I don't want to end up in a lawsuit aimed at me from anyone, if I can help it. Apparently, even saying Virginia is a liar has hazards. You knew at the time you called Virginia a liar in early January of 2015 that that was something that would result in a lawsuit, is that correct?

A. I have legal advice that I took.

Q. But you knew in early January by making a statement calling Virginia a liar that you were subjecting yourself to a legal dispute with her?

Q. I took legal advice as to what should be said and not be said and the legal advice that came from the United Kingdom was –

A. Sorry.

Q. So is it correct without telling me what you talked to your lawyers about that you knew because this is dated January 10 that when you made this statement in early January, January 2 of 2015 you knew that calling Virginia a liar would subject you to a legal action, isn't that correct?

A. All I can say is I asked a question and received legal advice.

Likewise, all the communications between Mr. Gow and Ms. Maxwell pre-dating the statement issued by Mr. Gow on January 2, 2015 that form the basis of this suit were produced in advance of *both* of Ms. Maxwell's depositions. *See* Menninger Decl., Ex. B, [GM_01036-01044]. Any questioning concerning Ms. Maxwell's involvement or input into the content of the single statement was available for exploration. Yet, Plaintiff either neglected to or decided not to question Ms. Maxwell about the majority of these documents at their own option, which cannot form the basis for reopening a deposition. *Dash,* 2015 WL 4257329, at *6 (refusing to reopen deposition where party neglected to or affirmatively opted not to inquire about information available at prior deposition).

Finally, Mr. Gow himself is scheduled to sit for a deposition himself during November on topics to include his correspondence with Ms. Maxwell and with the press concerning Ms. Maxwell, presumably to include the very email that forms the subject of this motion. Plaintiff will have a full and fair opportunity to question him under oath regarding the email that he wrote to Ms. Maxwell.

Finally, Plaintiff claims relevance and prejudice based on a one-line email, received by Ms. Maxwell and to which she never responded, on November 15, 2015 – almost a year after the alleged defamatory statement was issued by Mr. Gow. This document has no bearing on the issue Plaintiff claims requires reopening of her deposition – Ms. Maxwell's input into the content of the January 2, 2015. And, again, nearly identical emails requesting input from Ms. Maxwell based on media and media inquiries post-dating January 2, 2015, including press inquiries after the filing of this lawsuit, were produced prior to the deposition and Plaintiff chose not to question Ms. Maxwell about these emails for the purposes she now claims are relevant. Menninger Decl., Ex. C [GM_01060-01068, 00594].

Ms. Maxwell has fully testified regarding the consultation she had on the January 2, 2015 email, produced all non-privileged documents prior to her depositions, and this later dated email is irrelevant to Ms. Maxwell's clear sworn responses on the subject matter.

C. Plaintiff Misrepresents Previous Discovery Concerning Ms. Maxwell's Communications with Jeffery Epstein

Plaintiff's half-hearted attempt to claim that a communication between Ms. Maxwell and Mr. Epstein related to a possible response to Plaintiff's published false claims concerning Ms. Maxwell is somehow "new," not previously explored, or relevant is provably inaccurate. The entirety of Plaintiff's argument concerning the "key" nature of this email is:

> [T]he email with Epstein regarding a reply to "one further allegation," shows that Defendant is active in shaping her public statements regarding Ms. Giuffre, and

> giving drafts to Epstein for his approval. Accordingly, Defendant was never deposed on (1) why she was seeking Epstein's permission for having Barden make a "reply;" (2) what Epstein's relationship was with Barden; (3) or who drafted the original communication at the bottom of the email, as it does not appear to have been created by either Defendant or Epstein.

As Plaintiff is fully aware, Ms. Maxwell already fully deposed on "(1) why she was seeking Epstein's permission for having Barden make a 'reply'"; any claim to the contrary is simply false. Ms. Maxwell produced (prior to her depositions) several similar communications between herself and Mr. Epstein in which she sought input from Mr. Epstein on having her attorney, Mr. Barden, respond to allegations made by Plaintiff concerning Ms. Maxwell. Indeed in one email, Mr. Epstein advised Ms. Maxwell to go out and hold her head high because she had done nothing wrong. *See* Menninger Decl., Ex. D [GM_01069-01072; 01075; 01084-01099]. Further, Ms. Maxwell was specifically deposed on this issue:[1]

> (Maxwell Exhibit 23, email, marked for identification.)
>
> Q. This is an email from, if you look at the chain at the top, you will see it's from you to Jeffrey on January 27 and the email at the bottom of the chain is from Jeffrey to you on January 27. He states, What happened to you and your statement, question mark, question mark. And you put at the top, I have not decided what to do.
>
> A. Uh-huh.
>
> Q. Why was Jeffrey interested in you making a statement to the press?
>
> A. I don't know that he was interested. We made a statement and then I was being advised to make an additional statement and I never did.
>
> Q. Was Jeffrey communicating with you regularly on what additional statement you might make?
>
> A. No, I've communicated with him very little, as little as possible.
>
> Q. Why did you feel you had to keep him informed of statements you were making to the press?
>
> A. I didn't feel I had to.

[1] As to the substance of the email – Plaintiff's fabricated claim that Mr. Epstein and Ms. Maxwell requested Plaintiff to bear a child for them – Ms. Maxwell was extensively questioned in her first deposition. Menninger Decl. Ex. A, at 337-39.

Q. Then why you were communicating with him about statements you were making to the press?

A. Insofar as this is the case, it's really all about Jeffrey, it's not a case about me.

Menninger Decl., Ex. A at 392-94.

As to the second point, there is simply no basis for claiming any "relationship" exists between Mr. Barden and Mr. Epstein – there is none. Again, numerous communications were produced in advance of Ms. Maxwell's depositions relating to Ms. Maxwell's request for input on Mr. Barden's draft statements to the press (Menninger Decl., Ex. D), thus making any line of inquiry available to Plaintiff had she believed it were actually relevant or "key." Regardless, Plaintiff provides no reason to claim that there is any relevance to a line of inquiry regarding an alleged relationship between Mr. Epstein and Mr. Barden.

As for the final point, it is obvious from the subject line and content of the email that Ms. Maxwell was forwarding a non-privileged excerpt of a privileged communication from her attorney, Mr. Barden, to Mr. Epstein. This is certainly no basis to reopen a deposition as the document speaks for itself.

D. The Reopening of Plaintiff's Deposition is Irrelevant

Plaintiff attempts to distract the Court form the legal standards required to reopen a deposition, instead arguing that she did not oppose reopening her own deposition. Of course, Plaintiff did not simply inadvertently miss two irrelevant documents in a 1,200 page production. Rather, prior to her deposition she failed to identify over thirteen (13) healthcare providers and failed to produce hundreds of pages of medical records, work records and educational records, all of which were requested prior to her deposition. She even omitted records from her *current* therapist and from the doctor who was (and is, apparently) prescribing substantial quantities of drugs at the time of her deposition. Indeed, Plaintiff's second deposition still cannot be

scheduled because Plaintiff persists in her failures to provide complete medical records. Despite Plaintiff's September 21, 2016 Motion for Court Approval of Plaintiff's Certification of Production claiming that she has completed production of medical records and emails, Plaintiff sent a release for health care information from her insurance companies on October 10, 2015 (Menninger Decl., Ex. E [GIUFFRE009094-009102])– a release and records that were requested in April. To date, those (and many other) records have not been produced.

Moreover, Plaintiff made substantive and completely contradictory changes to her deposition testimony in errata sheets after the conclusion of her deposition. As well, she was instructed by counsel not to answer questions about false statements published in the media attributed to her that were critically relevant and she refused to answer the questions. She later conceded no privilege precluded her answers, and that is among the reasons she agreed to sit for a second deposition. Unlike Plaintiff, Ms. Maxwell had no opportunity to depose Plaintiff on multiple and critical issues including unproduced medical records, and undisclosed treatment providers, undisclosed educational history, undisclosed employment, undisclosed intervening causes of her alleged emotional distress, her material contradictory changes to testimony, and any statements published and attributed to her by the media she admits are false. Ms. Maxwell did not request to reopen the deposition to seek cumulative, duplicative and/or irrelevant information. The two situations are vastly different and cannot be compared.

WHEREFORE, Defendant Ghislaine Maxwell requests that Plaintiff's Motion to Reopen her Deposition and permit a third deposition be denied.

Dated: October 24, 2016

Respectfully submitted,

/s/ Laura A. Menninger

Laura A. Menninger (LM-1374)
Jeffrey S. Pagliuca (*pro hac vice)*
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Attorneys for Ghislaine Maxwell

CERTIFICATE OF SERVICE

I certify that on October 24, 2016, I electronically served this *Defendant's Response to Plaintiff's Motion to Reopen Defendant's Deposition* via ECF on the following:

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StanPottinger@aol.com

/s/ Nicole Simmons
Nicole Simmons

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

----------X

15-cv-07433-RWS

Declaration of Laura A. Menninger in Support of Defendant's Response in Opposition to Plaintiff's Motion to Reopen Defendant's Deposition

I, Laura A. Menninger, declare as follows:

1. I am an attorney at law duly licensed in the State of New York and admitted to practice in the United States District Court for the Southern District of New York. I am a member of the law firm Haddon, Morgan & Foreman, P.C., counsel of record for Defendant Ghislaine Maxwell in this action. I respectfully submit this Declaration in support of Ms. Maxwell's Response to Plaintiff's Motion to Reopen Defendant's Deposition.

2. Attached as Exhibit A (filed under seal) are true and correct copies of excerpts from the April 22, 2016 deposition of Ghislaine Maxwell, designated Confidential under the Protective Order.

3. Attached as Exhibit B (filed under seal) are true and correct copies of communication between Mr. Gow and Ms. Maxwell Bates stamped GM_01036-01044.

4. Attached as Exhibit C (filed under seal) are true and correct copies of media email inquiries requesting Ms. Maxwell's input Bates stamped GM_01060-01068,00594.

5. Attached as Exhibit D (filed under seal) are true and correct copies of communications between Ms. Maxwell, Mr. Epstein and Mr. Barden Bates stamped GM_01069-01072;01084-01099.

6. Attached as Exhibit E (filed under seal) are true and correct copies of Plaintiff's medical releases requesting healthcare information sent October 10, 2016 Bates stamped GIUFFRE009094-009102.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 24, 2016.

s/ Laura A. Menninger
Laura A. Menninger

CERTIFICATE OF SERVICE

I certify that on October 24, 2016, I electronically served this *Declaration of Laura A. Menninger in Support of Defendant's Response in Opposition to Plaintiff's Motion to Compel Data from Defendant's (Non-Existent) Undisclosed Email Account and For an Adverse Inference Instruction* via ECF on the following:

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/s/ Nicole Simmons
Nicole Simmons

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- x
VIRGINIA L. GIUFFRE,

Plaintiff,

-against-

Case No.:
15-cv-07433-RWS

GHISLAINE MAXWELL,

Defendants.

- x

CONFIDENTIAL

Videotaped deposition of GHISLAINE MAXWELL, taken pursuant to subpoena, was held at the law offices of BOIES SCHILLER & FLEXNER, 575 Lexington Avenue, New York, New York, commencing April 22, 2016, 9:04 a.m., on the above date, before Leslie Fagin, a Court Reporter and Notary Public in the State of New York.

- - -

MAGNA LEGAL SERVICES
1200 Avenue of the Americas
New York, New York 10026

Q. Is it your testimony that [redacted] [redacted] knows Jeffrey Epstein through the work that she does for you?

MR. PAGLIUCA: Objection to the form and foundation.

A. I don't recollect, and I don't recollect how I met [redacted] and I can't testify to what [redacted] relationship is or is not with Jeffrey.

Q. Have you ever talked to Jeffrey about [redacted]

A. I don't know what you mean.

Q. In any way, have you ever had a conversation with Jeffrey about [redacted]

A. In what context.

Q. In any context. Have you ever talked to Jeffrey Epstein about [redacted]

A. [redacted] works for me so it's entirely possible that in the course of conversations since 2002, 2003 that a conversation in which [redacted] name would have come up is entirely possible.

Q. I provided you with and I'm sorry, I don't know all the numbers, but the

statement that was issued by Ross Gow that should be a single page still in your stack of exhibits there.

MR. PAGLIUCA: Exhibit 10.

Q. Did you authorize Ross Gow to issue that statement on your behalf in January of 2015?

A. I already testified that that was done by my lawyers.

Q. So did you authorize your lawyers to issue a statement on your behalf through Ross Gow in January of 2015?

A. It was determined that I had to make a statement in the United Kingdom because of the appalling lies and I just thought of some new ones.

Virginia's statement that I celebrated her 16 birthday with her. We can all agree that that's entirely impossible. I didn't meet her until she was 17 and other lies she perpetrated that she had a diary and we all know is a complete fake. That's not a diary. It was just a book she was writing that you helped sell to the press, as if it

was a diary, when it was just a story that she is writing of fiction, fictional story for money.

Q. How did you arrive at the words that were put in that statement?

MR. PAGLIUCA: I'm going to object and instruct you to the extent this calls for any privileged communications between yourself and Mr. Barden or another lawyer representing you, we're asserting privilege. If you can answer that without that, feel free to answer.

Q. So what your counsel is saying, and I will exclude any privileged communications you had with your lawyers.

The question is, how did you arrive at the words that were put in that statement, if you can tell me without disclosing privileged communications?

A. I'm not sure that I can.

Q. Is the statement that you issued true?

A. What do you mean by that?

Q. Is the statement that you issued,

Q. To become pregnant, did you or Jeffrey Epstein ever ask any female to become pregnant and carry Jeffrey Epstein's baby for you or for Jeffrey?

MR. PAGLIUCA: Objection to form and foundation.

A. You need to be very specific. I have no idea what you are talking about. That's completely rubbish.

Q. Did you or Jeffrey Epstein ask any female to become pregnant and carry his baby for either him or you?

MR. PAGLIUCA: Objection to the form and foundation. Go ahead.

A. I can't testify to anything Jeffrey did or didn't do when I am not present, but I have never asked anybody to carry a baby for me.

Q. Or anything along those lines?

MR. PAGLIUCA: Object to the form and foundation.

Q. I want to make sure we are talking about the same thing, not physically carry a baby, I mean become pregnant with a baby?

MR. PAGLIUCA: Objection to the form and foundation.

Q. I want to make sure we are clear.

A. I don't know what you are asking.

Q. That's why I want to make sure we are clear.

A. We are clear. I never asked anybody to carry a baby for me.

Q. Do you know if Jeffrey ever asked anybody to carry a baby for him?

A. I'm not going to characterize any conversation Jeffrey had with somebody else.

Q. You are not aware of that, is that your testimony?

A. I am testifying I never have and I will not testify for anything for Jeffrey.

Q. Did you ever hear Jeffrey ask anybody to carry a baby for him?

A. I don't recollect conversation about Jeffrey and babies in any form.

Q. Did Jeffrey ever tell he wanted to have a baby?

A. I don't recollect baby conversations with Jeffrey.

Q. So he never told you he wanted to have a baby?

A. I don't recollect any baby conversations with him saying he wanted to have a baby.

Q. Did you ever bring any females to the Dubin's house that were not your friends' children that were under the age of 18?

MR. PAGLIUCA: Objection to form and foundation.

A. I have never, to my knowledge, brought anybody under the age of 18 that's not a friend of my family or my nieces or nephews to the Dubin household.

Q. Earlier today you testified, I believe, that with respect to your town home Jeffrey paid for some of that and then gave you a loan, is that correct?

MR. PAGLIUCA: Objection to the form and foundation.

A. I said, actually I think it was a loan, I believe it was a loan.

Q. The whole thing?

A. As best as I can recollect.

MR. PAGLIUCA: Objection to the form and foundation.

A. I was not coordinating with Jeffrey. He had details that I did not have. I was not party to his case. I needed to have information in order to be able to respond so I was not coordinating with him. I was merely asking for details that I could have.

Q. Did Jeffrey write any of your press statements for you?

A. No.

Q. He didn't draft any of them?

A. I have a lawyer who was working on this and that was -- I asked, I believe as I recollect asked him for information to make sure I was being accurate in the representations for whatever I was discussing.

Q. Did Jeffrey provide you with any drafts of statements to provide to the press?

A. I only recall drafts from my lawyer.

Q. I will mark this as Maxwell 17.

G Maxwell - Confidential

(Maxwell Exhibit 17, email, marked for identification.)

Q. This is an email from you on January 10, 2015 to Philip Barden and Ross Gow. The statement you had before you earlier, that, if you can pull that in front of you, the one page press release that you gave. You might know from memory.

Was the press release that you issued with the statement about Virginia issued in or around January 2, 2015?

A. As best as I can recollect.

Q. I want to turn your attention to the document I just handed you which is Bates No. 001044, from you to Philip Barden and Ross Gow. It says in the first sentence, I'm out of my depth to understand defamation, other legal hazards and I don't want to end up in a lawsuit aimed at me from anyone, if I can help it. Apparently, even saying Virginia is a liar has hazards.

You knew at the time you called Virginia a liar in early January of 2015 that that was something that would result in a

lawsuit, is that correct?

MR. PAGLIUCA: Objection to the form and foundation.

A. I have legal advice that I took.

Q. But you knew in early January by making a statement calling Virginia a liar that you were subjecting yourself to a legal dispute with her?

MR. PAGLIUCA: Objection to the form and foundation.

A. I took legal advice as to what should be said and not be said and the legal advice that came from the United Kingdom was --

MR. PAGLIUCA: You are not allowed to talk about any legal advice that you got from anybody that's a lawyer.

A. Sorry.

Q. So is it correct without telling me what you talked to your lawyers about that you knew because this is dated January 10 that when you made this statement in early January, January 2 of 2015 you knew that calling Virginia a liar would subject you to

a legal action, isn't that correct?

MR. PAGLIUCA: Objection to the form and foundation. As to what you knew -- whatever she knows would be privileged.

MS. McCAWLEY: I'm asking if she knows. I'm not asking her to tell me about her privileged communications.

A. All I can say is I asked a question and received legal advice.

(Maxwell Exhibit 18, email, marked for identification.)

Q. This is an email dated January 15, 2015 from Jeffrey Epstein to you?

A. Uh-huh.

Q. It states in the first line, do you want [redacted] to come out and say she was the girlfriend during the time?

MR. PAGLIUCA: Objection to the form and foundation of the question and actually the word is [redacted], there is no vowel in there.

MS. McCAWLEY: I was just trying to pronounce it.

This will now end?

MR. PAGLIUCA: Objection to the form and foundation.

A. I have no idea.

Q. Did you discuss with him what he meant by the statement, This will now end?

A. I don't recall.

Q. Was he taking any action to ensure that, quote, this will now end?

A. I have no idea.

(Maxwell Exhibit 23, email, marked for identification.)

Q. This is an email from, if you look at the chain at the top, you will see it's from you to Jeffrey on January 27 and the email at the bottom of the chain is from Jeffrey to you on January 27.

He states, What happened to you and your statement, question mark, question mark. And you put at the top, I have not decided what to do.

A. Uh-huh.

Q. Why was Jeffrey interested in you making a statement to the press?

MR. PAGLIUCA: Objection to the form and foundation.

A. I don't know that he was interested. We made a statement and then I was being advised to make an additional statement and I never did.

Q. Was Jeffrey communicating with you regularly on what additional statement you might make?

MR. PAGLIUCA: Objection to the form and foundation.

A. No, I've communicated with him very little, as little as possible.

Q. Why did you feel you had to keep him informed of statements you were making to the press?

MR. PAGLIUCA: Objection to the form and foundation.

A. I didn't feel I had to.

Q. Then why you were communicating with him about statements you were making to the press?

MR. PAGLIUCA: Objection to the form and foundation.

A. Insofar as this is the case, it's really all about Jeffrey, it's not a case about me.

Q. In 2009, did you direct your lawyer, either directly or indirectly, to tell Brad Edwards that you were unavailable to attend a deposition?

MR. PAGLIUCA: Objection to the form and foundation. And this is a privileged communication as I understand the question, what someone said or didn't say to their lawyer. So don't answer the question.

Q. Can you answer that question without revealing a privileged communication?

A. Can you ask the question again?

Q. In 2009, did you direct your lawyer to tell Brad Edwards that you were unavailable to attend a deposition?

MR. PAGLIUCA: Same instruction.

Q. Did you make any statement in 2009 to anybody that you were unavailable to attend a deposition?

A. My mother was sick and I don't

EXHIBIT B

From: [redacted]
Sent: Friday, January 02, 2015 12:01 PM
To: G Max
Subject: Agreed copy

G
Sorry about that, was going through Eurotunnel passport control.
Still haven't received your mail...
Best
Ross
Sent from my BlackBerry® wireless device

From: [redacted]
Date: Fri, 2 Jan 2015 17:06:35 +0000
To: G Max<gmax1@ellmax.com>
ReplyTo: [redacted]
Subject: Fw: The Times - David Brown

Hi Ghislaine
The Times and the BBC having rung suggesting there are 'fresh' allegations by another woman, not Victoria. Do you still wish to stand by original statement, including including the part about litigating with papers who reported on the subject...
Best
Ross
Sent from my BlackBerry® wireless device

From: "Brown, David" [redacted]
Date: Fri, 2 Jan 2015 16:42:26 +0000
To: [redacted]
Subject: The Times - David Brown

Dear Mr Gow
Many thanks for your help. The allegations against Miss Maxwell are contained in the document dated December 30, 2104, and relate to a woman referred to as Jane Doe #3.
Yours sincerely
David Brown
Reporter
The Times
[redacted]

--
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From: [redacted]
Sent: Friday, January 02, 2015 10:07 AM
To: G Max
Subject: Fw: The Times - David Brown

Hi Ghislaine
The Times and the BBC having rung suggesting there are 'fresh' allegations by another woman, not Victoria. Do you still wish to stand by original statement, including including the part about litigating with papers who reported on the subject...
Best
Ross
Sent from my BlackBerry® wireless device

From: "Brown, David" [redacted]
Date: Fri, 2 Jan 2015 16:42:26 +0000
To: [redacted]
Subject: The Times - David Brown

Dear Mr Gow
Many thanks for your help. The allegations against Miss Maxwell are contained in the document dated December 30, 2104, and relate to a woman referred to as Jane Doe #3.
Yours sincerely
David Brown
Reporter
The Times
[redacted]

--
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From: [redacted]
Sent: Friday, January 02, 2015 12:16 PM
To: G Max
Subject: Re: Agreed copy

Understood, thanks
Sent from my BlackBerry® wireless device

From: G Maxwell <GMax1@ellmax.com>
Date: Fri, 2 Jan 2015 18:59:16 +0000
To: [redacted]
Subject: Re: Agreed copy

Just sent you a letter of re engagement + a letter that Philip is slightly re working ..plse don't send anything until we have spoken one last time

THE TERRAMAR PROJECT
FACEBOOK
TWITTER
G+
PINTEREST
INSTAGRAM
PLEDGE
THE DAILY CATCH

From: Ross Gow
Reply-To: Ross Gow
Date: Friday, January 2, 2015 at 14:01 PM
To: gmax
Subject: Agreed copy

G
Sorry about that, was going through Eurotunnel passport control.
Still haven't received your mail...
Best
Ross
Sent from my BlackBerry® wireless device

From: [redacted]
Date: Fri, 2 Jan 2015 17:06:35 +0000
To: G Max<gmax1@ellmax.com>
ReplyTo: [redacted]
Subject: Fw: The Times - David Brown

Hi Ghislaine
The Times and the BBC having rung suggesting there are 'fresh' allegations by another woman, not Victoria. Do you still wish to stand by original statement, including including the part about litigating with papers who reported on the subject...
Best
Ross
Sent from my BlackBerry® wireless device

From: "Brown, David" [redacted]
Date: Fri, 2 Jan 2015 16:42:26 +0000
To: [redacted]
Subject: The Times - David Brown

Dear Mr Gow
Many thanks for your help. The allegations against Miss Maxwell are contained in the document dated December 30, 2104, and relate to a woman referred to as Jane Doe #3.
Yours sincerely
David Brown
Reporter
The Times
[redacted]

--
"Please consider the environment before printing this e-mail"

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From: [redacted]
Sent: Friday, January 02, 2015 12:57 PM
To: G Max
Subject: Re: URGENT

Will do.
Await revamped note from Devonshires...
Sent from my BlackBerry® wireless device

From: G Maxwell <GMax1@ellmax.com>
Date: Fri, 2 Jan 2015 19:39:48 +0000
To: Ross Gow[redacted]
Subject: URGENT

You can say that this is not a new person but Virginia Roberts to all and say that you will give a statement
Here are the names from the mail who have contacted me by phonr
Daneil Bates
[redacted]US no.
And Martin Robinson
[redacted]uk no
Thx
G

THE TERRAMAR PROJECT
FACEBOOK
TWITTER
G+
PINTEREST
INSTAGRAM
PLEDGE
THE DAILY CATCH

From: Ross Gow [redacted]
Sent: Friday, January 02, 2015 1:07 AM
To: G Max
Cc: Brian Basham
Subject: Fwd: URGENT – Ghislaine Maxwell

Hi Ghislaine
James Ball, investigative reporter for The Guardian, who reports on US stories, has made contact, as per below.

Please advise how you wish to handle this. I am driving all day today, but can be contacted on [redacted]

Best
Ross

---------- Forwarded message ----------
From: **James Ball** [redacted]
Date: Thursday, January 1, 2015
Subject: URGENT – Ghislaine Maxwell
To: [redacted]

Dear Ross,

I'm writing to you as you have in the past represented Ghislaine Maxwell. As you are no doubt aware, fresh allegations have been levelled against Ms Maxwell in new US court filings made in Florida on 30 December, which some outlets have already been reported.

I would urgently seek any comment on behalf of your client, or notification of her new representation if you no longer act for her.

Many thanks for your help,
James

--
• James Ball • Special Projects Editor • +44 203 3533 293 • +44 7540 825 494 • @jamesrbuk •

--
Ross Gow
Managing Partner
ACUITY Reputation
23 Berkeley Square
London W1J 6HE
[redacted]

www.acuityreputation.com

EXHIBIT C

From: gmax1@ellmax.com
Sent: Saturday, January 10, 2015 9:00 AM
To: Philip Barden; Ross Gow

I am out of my depth to understanding defamation and other legal hazards and don't want to end up in a law suit aimed at me from anyone if I can help it. Apparently even saying Virginia is a lier has hazard! I have never been in a suit criminal or civil and want it to stay that way.
The US lawyers for the Jane Does are filling additional discovery motions and if I speak I open my self to being part of discovery apparently. I am trying to stay out of litigation and not have to employ lawyers for years as I get lost in US legal nightmare. I stand no legal risk currently on these old charges and civil suits against Jeffrey
We need to consult with US lawyers on any statement I make and the complaints too
Perhaps we make a statement of the legal risk of saying anything for potential defamation or something that prevents a full and frank detailed rebuttal + the press not being the place for that? Regardless, Philip plse call jeffrey lawyer and see what you can understand from him and pehaps craft something in conjunction with him? Either way I think you need to speak to him to understand my risk so you can help me understand it - too may cooks in the kitchen and I can't make good decisions. Plse reach out to him today
+ I have already suffered such a terrible and painful loss over the last few days that I can't even see what life after press he'll even looks like - statements that don't address all just lead to more questions..what is my relationship to clinton ? Andrew on and on.
Let's rest till monday. I need head space

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THE DAILY CATCH<http://theterramarproject.org/thedailycatch/>

From: Philip Barden
Date: Friday, January 9, 2015 at 17:05 PM
To: Ross Gow
Cc: gmax
Subject: Re: The Times - Ghislaine Maxwell

Agreed

We agreed to release a statement

We should support our friends and deny the allegations as Dershowitz urges and Prince Andrew has.

We run the real risk of guilt by silence and that is likely to feed false claims and false suits as we saw with the BBC

I advised the soldiers in Bloody Sunday not to give interviews so I am cautious and this is the time to speak.

I can say no more. I hope our advice is followed.

Philip

Sent from my iPhone

On 9 Jan 2015, at 21:53, "Ross Gow" [redacted] wrote:

Ghislaine
I believe the next 18hrs is the best chance we have to leverage some transparency advantage on this.
MoS first then Sunday Times. Otherwise we lose any chance of ownership of the narrative.
Please give it some serious thought...
Dershowitz is out on Monday with a big push in The Times and we run the risk of looking less than gripped.
best
R

On 9 January 2015 at 20:02, Philip Barden [redacted]

I am heading home now and will call when get there

Let's not waste this moment please

Sent from my iPhone

On 9 Jan 2015, at 18:11, "Ross Gow"
[redacted]

Ghislainr
further reason for us to put our side of the story out...
best
Ross

---------- Forwarded message ----------
From: Brown, David
[redacted]
Date: 9 January 2015 at 18:09
Subject: The Times - Ghislaine Maxwell
To: Ross Gow
[redacted]

Hi Ross
Do keep in touch. I think were running a piece written by Professor Dershowitz on Monday.
If Miss Maxwell wants to make a comment do let me know...
All the best
David Brown
Reporter
The Times
[redacted]

--

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Ross Gow
Managing Partner
ACUITY Reputation
23 Berkeley Square
London W1J 6HE

[redacted]

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From: Ross Gow [redacted]
Sent: Friday, January 09, 2015 2:54 PM
To: Philip Barden
Cc: G Max
Subject: Re: The Times - Ghislaine Maxwell

Ghislaine
I believe the next 18hrs is the best chance we have to leverage some transparency advantage on this.
MoS first then Sunday Times. Otherwise we lose any chance of ownership of the narrative.
Please give it some serious thought...
Dershowitz is out on Monday with a big push in The Times and we run the risk of looking less than gripped.
best
R

On 9 January 2015 at 20:02, Philip Barden [redacted] wrote:
I am heading home now and will call when get there

Let's not waste this moment please

Sent from my iPhone

On 9 Jan 2015, at 18:11, "Ross Gow" [redacted] wrote:

Ghislainr
further reason for us to put our side of the story out...
best
Ross

---------- Forwarded message ----------
From: Brown, David [redacted]
Date: 9 January 2015 at 18:09
Subject: The Times - Ghislaine Maxwell
To: Ross Gow [redacted]

Hi Ross
Do keep in touch. I think were running a piece written by Professor Dershowitz on Monday.
If Miss Maxwell wants to make a comment do let me know...
All the best
David Brown
Reporter
The Times
[redacted]

--

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--

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From: Ross Gow [redacted]
Sent: Monday, September 21, 2015 2:22 PM
To: Gmax; Philip Barden
Subject: Fwd: Question from NY Daily News
Attachments: Maxwell.pdf

G
Here we go again. VR on our case again.
Joyous to hear I'm not a co-defendant...
Best
R

---------- Forwarded message ----------
From: "Brown, Stephen" [redacted]
Date: 21 Sep 2015 20:28
Subject: Question from NY Daily News
To: [redacted]
Cc:

Hi Ross, I'm working on a story about a defamation suit filed by Virginia Roberts against Ghislaine Maxwell.

Virginia alleges that Ghislaine defamed her by calling her claims "obvious lies," among other denials. Those denials were released through you. (To be clear, you're not named as a defendant.)

I'm wondering if Ghislaine has a response to the suit, which is attached.

Thank you,

Stephen Brown
Manhattan Federal Court Reporter
NY Daily News
[redacted]

**********(NJ)

EXHIBIT D

From: G Maxwell <GMax1@ellmax.com>
Sent: Sunday, January 11, 2015 6:26 AM
To: J Jep
Subject: Fw:

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From: Philip Barden [redacted]
Sent: Sunday, 11 January 2015 05:27
To: [redacted]
Cc: G Maxwell
Subject: Re:

Saying nothing is reputational suicide. Even if AR is discredited by AD people will know JE paid her off and believe G was complicate absent a credible denial.

Now it is reported that G engaged in direct abuse - as I feared would happen. Next reports to the authorities will be made.

It is necessary from a litigation, investigatory and reputational reason to issue a cogent denial.

I can see why JE doesn't want this as it may not suit him but he is already toast.

Philip

Sent from my iPhone

On 10 Jan 2015, at 18:42, [redacted] wrote:

Had Geordie on the phone half a dozen times today.

He would have give us a better hearing than most I figure.

Strongly believe saying nothing is the wrong thing - especially as Dershowitz has a big piece coming in The Times on Monday.

Rest up and speak Monday
Best
Ross
Sent from my BlackBerry® wireless device

From: Philip Barden [redacted]
Date: Sat, 10 Jan 2015 18:27:12 +0000
To: G Maxwell<GMax1@ellmax.com<mailto:GMax1@ellmax.com>>
Cc: Ross Gow[redacted]
Subject: Re:

All

I am back on line now.

I see the statement didn't go. Monday? Maybe tomorrow?

I will speak to Jeffery Epstein's lawyer but JE has a conflict with you and will want your silence as whilst you are being attacked there is less heat on him.

Either Virginia Roberts is lying or not. If we let her lie without challenge then the lies become the reality and that may lead to you facing investigation. These are serious allegations and In the UK prosecuting people who face allegations of sex abuse is now common place and a lot of resources are focused on this.

We can't sit back and let you be a conspirator by silence.

Your are not guilty and must follow Dershowtiz line. He is a leading lawyer and he hasn't followed the don't say anything for fear of litigation. He has rightly called VR bluff and shouted his innocence.

You have to stand up and deny the allegations or be branded guilty by association and that may lead to other investigations and worse.

I feel I am going around in circles.

I know what is right to do and that is to shout your innocence.

Try and get some rest. Call me tomorrow if you want anytime.

Speak to Deshowitz.

Don't allay yourself to JE as that is not the way to go.

Best

Philip

Sent from my iPhone

On 10 Jan 2015, at 16:02, "G Maxwell"
<GMax1@ellmax.com<mailto:GMax1@ellmax.com><mailto:GMax1@ellmax.com>> wrote:

I am out of my depth to understanding defamation and other legal hazards and don't want to end up in a law suit aimed at me from anyone if I can help it. Apparently even saying Virginia is a lier has hazard! I have never been in a suit criminal or civil and want it to stay that way.
The US lawyers for the Jane Does are filling additional discovery motions and if I speak I open my self to being part of discovery apparently. I am trying to stay out of litigation and not have to employ lawyers for years as I get lost in US legal nightmare. I stand no legal risk currently on these old charges and civil suits against Jeffrey
We need to consult with US lawyers on any statement I make and the complaints too
Perhaps we make a statement of the legal risk of saying anything for potential defamation or something that prevents a full and frank detailed rebuttal + the press not being the place for that? Regardless, Philip plse call jeffrey lawyer and see what you can understand from him and pehaps craft something in conjunction with him? Either way I think you need to speak to him to understand my risk so you can help me understand it - too may cooks in the kitchen and I can't make good decisions. Plse reach out to him today
+ I have already suffered such a terrible and painful loss over the last few days that I can't even see what life after press he'll even looks like - statements that don't address all just lead to more questions..what is my relationship to clinton ? Andrew on and on.
Let's rest till monday. I need head space

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From: jeffrey E. <jeevacation@gmail.com>
Sent: Sunday, January 11, 2015 3:27 PM
To: Gmax

what did you decide to do?

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Wednesday, January 21, 2015 4:16 PM
To: Gmax

Ask press to investigate whether Clinton was ever there . Challenge the press

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Wednesday, January 21, 2015 12:01 PM
To: Gmax

Since JE was charged in 2007 for solicitation of a prostitute I have been the target of outright lies, innuendo, slander, defamation and salacious gossip and harrasment; headlines made up of quotes I have never given, statements I have never made, trips with people to places I have never been, holidays with people I have never met, false allegations of impropriety and offensive behavior that I abhor and have never ever been party to, witness to events that I have never seen, living off trust funds that I have never ever had, party to stories that have changed materially both in time place and event depending on what paper you read, and the list goes on.

I have never been a party in any criminal action pertaining to JE

For the record:

At the time of Jeffrey's plea I was in a very long-term committed relationship with another man and no longer working with Jeffrey. Whilst I remained on friendly terms with him up until his plea, , I have had limited contact since

Every story in the press innuendo and comment has been taken from civil depositions against JE, which were settled many years ago. None of the depositions were ever subject to cross examination , not one. any

standard of truth and were used for those who claimed they were victims to receive financial payment to be shared between them and their lawyers. One firm created and sold fake cases against Mr. Epstein – the firm subsequently imploded and the Rothstein, the owner of the firm was sent to jail for 50 years for his crime. The lawyer who is currently representing Virgina was his partner. need I say morel

These so called 'new revelations' stem from an alleged diary from VR that reads like the memoirs she is purporting to be selling. Also perhaps pertinent - in a previous complaint against others, her claims were rejected by the police

"due to.. VR ..lack of credibility "

The new interest in this old settled case results from lawyers representing some of JE victims filed a suit against the US government not JE . They contend that the Us govt violated their rights.

The document and deal that JE negotiated with the government was given to the lawyers 6 years ago and is a public document.

I am not part of, nor did you have anything to do with, JE plea bargain

I have never even seen the proceedings nor any of the depositions

I reserve my right to file complaint and sue for defamation and slander

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Wednesday, January 21, 2015 4:47 PM
To: G Maxwell
Subject: Re: FW: Guardian

This will now end but I think a dismissive statement is ok

On Wednesday, January 21, 2015, G Maxwell <GMax1@ellmax.com> wrote:
See bellow

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From: Ross Gow
Date: Wednesday, January 21, 2015 at 17:45 PM
To: Philip Barden, gmax
Subject: Fwd: Guardian

So this isn't getting better...latest from our chums at The Guardian.

---------- Forwarded message ----------
From: **Jon Swaine** [redacted]
Date: Wednesday, January 21, 2015
Subject: Guardian
To: [redacted]

Ross
As discussed - here is the new affidavit from Virginia Roberts. She claims to have had sex with Ms Maxwell when Roberts was 15 years old.

She alleges that Ms Maxwell was "heavily involved in the illegal sex" and "she had sex with underage girls virtually every day when I was around her".

Roberts also says that Ms Maxwell "had large amounts of child pornography that she personally made".

Please do pass on any comment or response Ms Maxwell would like to make.

Thanks and all best

Jon

--
[redacted]

--
Ross Gow
Managing Partner
ACUITY Reputation
23 Berkeley Square
London W1J 6HE
[redacted]

www.acuityreputation.com

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Thursday, January 22, 2015 12:44 PM
To: Gmax

ive tried to call. what have you decided?

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Friday, January 23, 2015 4:46 PM
To: G Maxwell
Subject: Re: FW: Hi

should not be legal.

On Fri, Jan 23, 2015 at 6:03 PM, G Maxwell <GMax1@ellmax.com> wrote:
gawker have printed the entire address book, albeit redacted x

Sent from my iPad

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Friday, January 23, 2015 6:40 PM
To: G Maxwell
Subject: Re: Hi

I am convinced your statement should be be about the clinton story being easily dsiporived.

On Fri, Jan 23, 2015 at 8:07 PM, G Maxwell <GMax1@ellmax.com> wrote:
My friends are apoplectic..
Do you know what edwards et al want from all this shit? What are they looking for? What is the end game?

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From: jeffrey E.
Sent: Friday, 23 January 2015 18:46
To: G Maxwell
Subject: Re: FW: Hi

should not be legal.

On Fri, Jan 23, 2015 at 6:03 PM, G Maxwell <GMax1@ellmax.com> wrote:
gawker have printed the entire address book, albeit redacted x

Sent from my iPad

--

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From: jeffrey E. <jeevacation@gmail.com>
Sent: Friday, January 23, 2015 6:14 PM
To: G Maxwell
Subject: Re: Hi

publiclity

On Fri, Jan 23, 2015 at 8:07 PM, G Maxwell <GMax1@ellmax.com> wrote:
My friends are apoplectic..
Do you know what edwards et al want from all this shit? What are they looking for? What is the end game?

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From: jeffrey E.
Sent: Friday, 23 January 2015 18:46
To: G Maxwell
Subject: Re: FW: Hi

should not be legal.

On Fri, Jan 23, 2015 at 6:03 PM, G Maxwell <GMax1@ellmax.com> wrote:
gawker have printed the entire address book, albeit redacted x

Sent from my iPad

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From: jeffrey E. <jeevacation@gmail.com>
Sent: Sunday, January 25, 2015 4:30 PM
To: G Maxwell
Subject: Re: Update - FYI

thnaks

On Sun, Jan 25, 2015 at 7:27 PM, G Maxwell <GMax1@ellmax.com> wrote:
All had quietened down over here in last 24 hours but just googled you all again and under JE the daily mail printed a story 6 hours ago that they picked up from the daily beast which is jane doe 1's testimony (and video interview) about how Haley robson recruited her to give je one massage when she was 14 and goes into detail about what happened -

Sent from my iPad

--

From: jeffrey E. <jeevacation@gmail.com>
Sent: Sunday, January 25, 2015 4:41 AM
To: G Maxwell
Subject: Re:

ok, with me, You have done nothing wrong and i woudl urge you to start acting like it. go outside, head high, not as an esacping convict. go to parties. deal with it. . i had lisa svenson the swedish ocean ambassador yesteady she said no one on her ocean panel takes this stuff seriously and you would be welcoe to the ocean conferenec water conference etc.

On Sat, Jan 24, 2015 at 1:22 PM, G Maxwell <GMax1@ellmax.com> wrote:
I would appreciate it if [redacted] would come out and say she was your g'friend - I think she was from end 99 to 2002

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From: G Maxwell <GMax1@ellmax.com>
Sent: Tuesday, January 27, 2015 10:36 AM
To: jeffrey E.
Subject: Re:

I have not decided what to do

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From: jeffrey E.
Sent: Tuesday, 27 January 2015 11:50
To: G Maxwell
Subject:

what has happned to you and your statmenet??

--

United States District Court
Southern District of New York

Virginia L. Giuffre,

Plaintiff, Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.
_____/

PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO REOPEN DEFENDANT'S DEPOSITION BASED ON LATE PRODUCTION OF NEW, KEY DOCUMENTS

Plaintiff, Virginia Giuffre, by and through her undersigned counsel, hereby files her Reply in Support of her Motion to Reopen Defendant's Deposition Based on Late Production of New, Key Documents. Because Ms. Giuffre has shown the importance of reopening Defendant's deposition on these several important documents, because Defendant has not offered any substantial countervailing consideration, the Court should allow Ms. Giuffre to question Defendant in a deposition about these late produced communications.

I. INTRODUCTION

As the Court is well aware, Ms. Giuffre has alleged that Defendant defamed her when she called her a liar after Ms. Giuffre spoke out about being a child victim of sex abuse at the hands of Defendant and Defendant's long-time boyfriend, convicted pedophile, Jeffrey Epstein. The two documents at issue in the instant motion are Defendant's communications with her press agent and with Epstein concerning potential statements to the media regarding Ms. Giuffre. Therefore, not only do they involve two key individuals, but also a key topic in this litigation: Defendant's defamation of Ms. Giuffre through the media. Multiple documents show Epstein's involvement in crafting Defendant's various draft statements to the media concerning Ms. Giuffre, and one of the late

produced documents at issue in this pending motion is an email chain showing Epstein's involvement in crafting yet another draft statement. The other late produced document is a communication between Defendant and her press agent, Ross Gow. It also concerns a potential statement to the media about Ms. Giuffre. This email shows Gow's continued involvement in handling press inquiries concerning Ms. Giuffre on Defendant's behalf. That is relevant to Ms. Giuffre's claims for multiple reasons, not least of which is Defendant's nonsensical attempts to distance herself from Gow's statement, as recounted in the moving brief. Her continuance of working with him after he issued the defamatory statement, and after the commencement of this litigation (as shown by the document at issue) is evidence to the contrary. Ms. Giuffre should be able to cross her with that email and ask related questions. Therefore, both of these documents are highly relevant. Whatever Defendant argues about her prior deposition, she cannot claim that she was questioned about these two emails. Ms. Giuffre deserves the opportunity to ask Defendant about them.

II. ARGUMENT

A. Discovery Concerning These Emails is Not Duplicative, and it is Highly Relevant

As the Court will recall, a Defendant's initial deposition, she answered the questions put to her with evasive, non-responsive answers, unqualified refusals to answer, feigned memory loss, and feigned ignorance over the meaning of basic sentences and basic words ("I don't know what you mean by puppet"[1]). As a result, Ms. Giuffre was forced to file a Motion to Compel Defendant to Answer Deposition Questions (DE 143). On June 20, 2016, this Court granted Ms. Giuffre's Motion and directed Defendant to sit again for her deposition (June 20, 2016 Sealed Order, filed in redacted form at DE 264-1). As recounted in Ms. Giuffre's Motion to Enforce the Court's Order and Direct Defendant to Answer Deposition Questions (DE 314/356), Defendant was again evasive and refused to answer questions during her second deposition, despite the court's specific direction that she sit for her deposition and answer topic areas that she avoided during her first deposition. *See id.* Ms. Giuffre

[1] Maxwell Depo. Tr. at 287:24-25.

attempted to solicit Defendant's testimony pursuant to the Court's Order, but Defendant defied that Order and again refused to answer many questions, thus requiring Ms. Giuffre to file the Motion to Enforce the Court's Order, to attempt to obtain another deposition with a stern direction from the Court to the Defendant that she must answer questions during her deposition as originally directed by this Court. That motion is currently pending before this Court (DE314/356).

Thereafter, in this case where Defendant's production of email communications has been miniscule, Defendant stated that she "inadvertently" failed to produce two critical emails, and produced them after Defendant's second deposition was complete. While Ms. Giuffre attempted to confer with Defendant to secure her agreement to be deposed on this new information, Defendant refused to sit for a follow up deposition (despite the fact that Ms. Giuffre agreed to sit for her deposition under these same circumstance), thereby forcing Ms. Giuffre to file this motion with the Court to secure the Defendant's deposition on these two e-mails.

Defendant's paltry justification for opposing Ms. Giuffre's motion is that she previously answered questions concerning certain other communications with Epstein and Gow. That argument is unavailing.

First, Ms. Giuffre is entitled to question the Defendant on these specific communications. One is an email chain with her joint defense partner Jeffrey Epstein, who was also a co-abuser with her. The other is a communication with Ross Gow, Defendant's press agent who she refused to produce for a deposition, despite him being her agent and ***despite their sharing the same attorney***, forcing Ms. Giuffre to litigate the issue in the London courts, against Defendant's counsel, and at significant expense. An English Court has since ordered Gow to sit for his deposition, despite Defendant and her counsel's obstructionist refusal to produce him prior to that litigation.

Second, these documents are relevant precisely for the reason Defendant attempts to say they are not: their date. Notably, the questioning that Defendant cites in her brief surrounds

communications in January of 2015, whereas this newly- produced communication shows discussions with Gow from November of 2015 - ***after this litigation had commenced***. Therefore, Ms. Giuffre is entitled to ask the Defendant about her relationship with her agent in dealing with press and other inquires after the commencement of litigation.

This is particularly relevant, because, again, Defendant has been less than forthright in answering questions relating to her authorization of the issuance of the January statement. Ms. Giuffre will refer the Court to her discussion on pages 4-7 of her moving brief, describing the evasive answers Defendant gave regarding Gow, including that she "denies in part" simple statements concerning Gow, offering a non-responsive answer instead. The fact that she continued to engage with her agent Gow, after this litigation was filed, refutes any suggestion that she did not authorize her agent to act on her behalf in January 2015. Indeed, Defendant's continued use of her press agent and her continued reliance upon Epstein's input informs a pattern and practice that is echoed by the per-defamatory communications.

In sum, contrary to Defendant's argument, the fact that Ms. Giuffre questioned Defendant regarding her older communications with Epstein and Gow does not render redundant questions concerning her more recent communication with Epstein and Gow, nor could it.

Seeming to acknowledge the relevance of Ms. Giuffre asking questions about the Gow email, Defendant suggests that Ms. Giuffre could simply ask Defendant's press agent, Ross Gow, about the email he sent, instead of asking her. This is a flippant suggestion, as Defendant and her counsel have played an expensive game of cat-and-mouse with Mr. Gow's deposition, refusing to accept service of his Rule 45 subpoena. Mr. Gow, however, likely will be unable to answer questions about what Defendant thought about his inquiry, or what she did next, and similar questions.

Similarly, only Defendant can testify to her understanding of why she was explaining herself to Epstein on April 22, 2015, seemingly seeking his approval on a draft statement, and only she can

testify what she did after receiving Epstein's "ok." The fact that Defendant was seeking Epstein's permission with respect to her media communications regarding Ms. Giuffre shows a high level of coordination among these co-conspirators,[2] and Ms. Giuffre should not be precluded from asking about critical communications because Defendant failed to produce the communications until after so many key witnesses, including the Defendant, had testified.

B. This Court has Already Held that Reopening a Deposition is Appropriate for Question concerning Documents Produced After the Deposition

This Court has already ruled that reopening a party deposition is appropriate where important[3] documents are produced after the deposition is completed. This ruling is in accord with relevant precedent. *See Wesley v. Muhammad*, 2009 WL 1490607, at *5 (S.D.N.Y. 2009) ("while

[2] Incorrectly, in Footnote 1, Defendant claims that Ms. Giuffre fabricated her claim that Maxwell and Epstein asked Ms. Giuffre to bear a child for them. Ms. Giuffre's statement is directly corroborated by another young woman Defendant' recruited to provide sexual massages to Epstein. Indeed, Johanna Sjorberg testified that Epstein asked her to bear a child for him:

> Q. Have you ever been propositioned by anyone to have a baby for someone?
> A. Yes.
> Q. Who propositioned you?
> A. Jeffrey asked me.
> Q. Did he ask you more than once?
> A. Yes.
> Q. And what did he say?
> A. Basically just said, I want you to be the mother of my baby.

See Schultz Dec. at Exhibit 1, May 18, 2016, Sjoberg Dep. Tr. at 39:25-40:9. There is no "fabrication" here.

[3] Defendant attempts to distinguish her two emails with key players in this case from the documents that Ms. Giuffre produced after her deposition, namely, medical and employment records. There is a distinction, but not what Defendant suggests. Not only are Ms. Giuffre's documents ancillary to the matter, but unlike the Defendant, Ms. Giuffre is cooperating with a follow up deposition on these documents – whereas Defendant is refusing to be deposed. This is not a personal injury action or a medical malpractice action wherein medical records are highly relevant. This is also not a wage-and-hour case, or a non-compete case, or an employment discrimination case wherein employment records are highly relevant. This is a defamation case. And the communications among the individuals who formed and then disseminated the defamatory statement (particularly when those communications address potential future statements about Ms. Giuffre) are more relevant - by orders of magnitude - than any of the medical or employment records about which Defendant will ask Ms. Giuffre at her second deposition, particularly when those medical records cover such topics so far afield, such as Ms. Giuffre's treatment for an animal bite.

defendants' delay in producing documents may have interfered with the completeness of depositions, plaintiff will be free to reopen any depositions for which he deems the newly produced documents to be a relevant source of questions"); *Ganci v. U.S. Limousine Serv., Ltd.*, 2011 WL 4407461 at *2 (E.D.N.Y. Sept. 21, 2011) ("Courts will typically reopen a deposition where there is new information on which a witness should be questioned").

Here, Defendant produced important documents - communications with Jeffrey Epstein and her press agent who disseminated her defamatory statement - well after her deposition, and well after she was served with the discovery request seeking those documents. These are not auxiliary documents. They are communications with two of the most important witnesses in this case: Jeffrey Epstein and Ross Gow. As key witnesses, Ms. Giuffre has spent considerable resources seeking their depositions and answers to the deposition questions. For Gow, Ms. Giuffre's efforts included service through The Hague Convention (twice), hiring an English firm to attempt personal service (Gow left the country); and initiating a separate action in England pursuant to this Court's Letter Rogatory. For Epstein, Ms. Giuffre deposed Epstein, but he improperly invoked the Fifth Amendment and improperly refused to produce documents. Accordingly, pending before this Court is Ms. Giuffre's Sealed Motion to Compel Epstein to answer questions and produce documents. Defendant's lately-produced communications with these two witnesses are critical evidence.

Defendant's error should not prejudice Ms. Giuffre, particularly since, pursuant to this Court's Order, Defendant will have the opportunity to depose Ms. Giuffre on her lately produced documents. The same standard that this Court applied to Defendant's motion to open Ms. Giuffre's deposition should apply to Ms. Giuffre's motion for the same relief, made on the same grounds. *See e.g.*, *Robinson v. T.J. Maxx, Inc.*, 148 F.R.D. 490, 492 (N.D.N.Y. 1993) (holding that discovery ruling regarding extension of discovery deadline applied to both parties equally); *In re 650 Fifth Ave.*, No. 08 CIV. 10934 KBF, 2013 WL 1870090, at *3 (S.D.N.Y. Apr. 24, 2013) (applying equal

standards to the parties' privilege logs, explaining "what's good for the goose is good for the gander.").

Well-reasoned precedent, as well as the facts in this case, requires the re-opening of Defendant's deposition. Accordingly, the Court should grant Ms. Giuffre's request to reopen Defendant's deposition to answer questions relating to her lately produced documents.

C. Ms. Giuffre's Motion is Not Untimely

Without any supporting case law or authority, Defendant has the gumption to argue that Ms. Giuffre's motion is somehow "untimely" when it was the Defendant who withheld these critical e-mails during the entire discovery period, denying Ms. Giuffre the benefit of being able to use these e-mails at multiple witness depositions. The only "untimeliness" claim that can be made here is against the Defendant.

The two emails in question are responsive to a Request for Production served on Defendant on February 2, 2016. Defendant produced these two emails on August 16, 2016, after her deposition and after the fact discovery period closed on July 29, 2016 (D.E. 317). Defendant wrongly suggests to this Court that the fact discovery closure date was September 8, 2016 but that is incorrect. The only deadline modified to September 8, 2016, was the expert disclosure deadline. (D.E. 413). Defendant's documents were clearly produced after the close of fact discovery. The only party that is untimely here is the Defendant.

III. CONCLUSION

For the foregoing reasons, and the reasons set forth in the moving brief, Ms. Giuffre respectfully requests that this Court Reopen Defendant's deposition to (1) answer lines of questions discussed in Ms. Giuffre's Motion to Enforce the Court's Order and Direct Defendant to Answer Deposition Questions Filed under Seal (DE 315) which is pending before the Court; and (2) answer questions related to the two key late produced documents.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 28, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

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