



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 MEREDITH SCHULTZ IN SUPPORT OF PLAINTIFF'S  
REPLY IN SUPPORT OF MOTION TO REOPEN DEFENDANT'S DEPOSITION  
BASED ON LATE PRODUCTION OF NEW, KEY DOCUMENTS**

I, Meredith Schultz, declare that the below is true and correct to the best of my knowledge as follows:

1. I am an associate 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 Reply In Support of Motion to Reopen Defendant's Deposition Based on Late Production of New, Key Documents.
3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of Excerpts from May 18, 2016, Deposition of Johanna Sjoberg.

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

/s/ Meredith Schultz  
Meredith Schultz, Esq.

Dated: October 28, 2016.

Respectfully Submitted,  
BOIES, SCHILLER & FLEXNER LLP

By: /s/ Meredith Schultz  
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<sup>1</sup> 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 the 28th 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/ Meredith Schultz  
Meredith Schultz

**EXHIBIT 1**  
**(FILE UNDER SEAL)**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

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VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

-----x

May 18, 2016

9:04 a.m.

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

Deposition of JOHANNA SJOBERG, 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.

1 talking on the phone about Frederic Fekkai?

2 A. Yes.

3 MS. MENNINGER: Objection, leading.

4 BY MS. McCAWLEY:

5 Q. What did you hear?

6 A. I heard him call someone, and say, Fekkai  
7 is in Hawaii. Can we find some girls for him?

8 Q. And what was your reaction to that?

9 A. Well, I was massaging and I didn't have a  
10 reaction. I tried to remain reactionless the whole  
11 five years.

12 Q. Did Jeffrey ever take you shopping?

13 A. Yes.

14 Q. Can you describe for me what happened?

15 A. Sure. He took me to Victoria's Secret. I  
16 believe he picked out everything and went into the  
17 room with me, the fitting room, which was very odd.

18 Q. Did he make any comments about being in  
19 the fitting room with you?

20 A. He joked that one time he was in there  
21 with another girl, and she said something like  
22 "Dad." But that's all I recall.

23 Q. Did Jeffrey ever talk to you -- let me  
24 back up a moment.

25 Have you ever been propositioned by anyone

1 to have a baby for someone?

2 A. Yes.

3 Q. And who propositioned you?

4 A. Jeffrey asked me.

5 Q. Did he ask you more than once?

6 A. Yes.

7 Q. And what did he say?

8 A. Basically just said, I want you to be the  
9 mother of my baby.

10 Q. And do you recall your response to that?

11 A. Um, I don't believe that I said flat-out  
12 no. I didn't agree to it. I would just say, Oh,  
13 yeah, really? Okay.

14 Q. Did you ever bring other girls over as  
15 Maxwell had requested?

16 MS. MENNINGER: Objection, leading,  
17 hearsay, form.

18 THE WITNESS: One time.

19 BY MS. McCAWLEY:

20 Q. Let me back up a minute, just to make it a  
21 clean question.

22 Did you ever bring friends over to massage  
23 Jeffrey?

24 A. No.

25 Q. And why did you not bring friends over to



# **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.

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**PLAINTIFF’S SECOND AMENDED SUPPLEMENTAL RESPONSE AND  
OBJECTIONS TO DEFENDANT’S FIRST SET OF  
DISCOVERY REQUESTS TO PLAINTIFF**

Plaintiff hereby serves her second amended supplemental 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, public interest 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. Per the Plaintiff's First Responses and Objections, and per our representations during the March 21, 2016 meet and confer phone call, we are working diligently to find information to supplement the below information with regard to address and dates, and once that information is obtained, Plaintiff will serve supplemental responses. Additionally, per the March 21, 2016 meet and confer phone call, we are addressing with the Plaintiff whether she will reveal here address to Defendant's counsel confidentially and we will update you with her response.

- 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 review of documents 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.
    - From 2000-2002, Ms. Giuffre lived and travelled with Jeffrey Epstein and stayed at his various mansions in New York (9 E. 71st Street, New York, NY 10021-4102), Palm Beach (358 El Brillo Way, Palm Beach, Florida 33480, New Mexico (Zorro Ranch, 49 Zorro Ranch Rd., Stanley, New Mexico 87056), U.S.V.I. (Little St. James, 6100 Red Hook Quarters, Suite B3,

St. Thomas, Virgin Islands 00802), and Paris (22 Avenue Foch Apt 2DD, Paris, France 75116).

- 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 mother, her father, and her brothers.
- 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, from 2009 through January of 2010. At this location, Ms. Giuffre lived with Robert Giuffre.



- 50 Bundeena Rd., Glenning Valley, NSW from approximately January of 2010 through October 13, 2013. At this location, Ms. Giuffre lived with Robert Giuffre.
- 5035 Winchester Drive, Titusville, FL from approximately November 6, 2013 to October of 2014. At this location, Ms. Giuffre lived with Robert Giuffre.
- 1270 J. Street, Penrose, CO 81240, from approximately October of 2014 through October of 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 numbers [REDACTED] Ms. Giuffre had a

Facebook account for a short time but it is no longer active. Per our representations during the March 21, 2015 meet and confer phone call, we are working diligently to find information to supplement the above information, and once that information is obtained, Plaintiff will serve supplemental responses.

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 as follows: Bob Josefsberg, Katherine W. Ezell, Amy Ederi (among other possible Podhurst Orseck, P.A. attorneys) represented Ms. Giuffre as a party in the litigation styled as *Jane Doe No. 102 v. Jeffrey Epstein, Case No. 09-80656-CIV-Marra/Johnson*, starting on January 27, 2009.
- Stan Pottinger, David Boies, and Sigrid McCawley (along with other Boies Schiller & Flexner LLP (“Boies Schiller”) attorneys) represented Ms. Giuffre as a non-party in the litigation styled as *Bradley Edwards and Paul Cassell v. Alan Dershowitz*, Case no. 15-000072, Seventeenth Judicial Circuit, Broward County, Florida, starting in February, 2015.
- Brad Edwards (along with other Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L. (“Farmer Jaffe”) attorneys), Paul Cassell, Stan Pottinger, David Boies and Sigrid McCawley (along with other Boies Schiller attorneys) represent Ms. Giuffre as a party in the litigation styled *Giuffre v. Maxwell*, 15-cv-07433-RWS in the Southern District of New York, the complaint of which was filed in September, 2015.
- Paul Cassell represents Ms. Giuffre as a non-party in the litigation styled as *Jane Doe #1 and Jane Doe #2 v. United States*, Case No. 08-80736-CIV-Marra, Southern District of Florida, starting in May of 2014.
- Brad Edwards (along with other Farmer, Jaffe attorneys) represents Ms. Giuffre as a non-party in the litigation styled as *Jane Doe #1 and Jane Doe #2 v. United States*, Case No. 08-80736-CIV-Marra, Southern District of Florida, starting in 2011.

- Brad Edwards provided Ms. Giuffre with legal advice concerning media inquiries Ms. Giuffre had received starting in 2011.
- Paul Cassell, Brad Edwards (along with other Farmer, Jaffe, attorneys), Stan Pottinger, David Boies (along with other Boies Schiller attorneys) represented Ms. Giuffre regarding investigations into potential legal action starting in the second half of 2014.
- Paul Cassell, Brad Edwards (along with other Farmer, Jaffe, attorneys), Stan Pottinger, David Boies, and Sigrid McCawley (along with other Boies Schiller attorneys) represent Ms. Giuffre as a cooperating witness with regard to a law enforcement investigation, starting in May, 2015.
- Paul Cassell provided Ms. Giuffre with legal advice concerning potential legal action starting in early 2011.
- Paul Cassell and Brad Edwards (along with other Farmer, Jaffe, attorneys) represented Ms. Giuffre and Victims Refuse Silence, giving advice regarding Victims Refuse Silence, starting in October, 2014.
- Meg Garvin (law professor at Lewis & Clark Law School, and the Executive Director of the National Crime Victim Law Institute ) represented Ms. Giuffre and Victims Refuse Silence, giving advice regarding Victims Refuse Silence, starting in October, 2014.
- Sigrid McCawley (along with other Boies Schiller attorneys) represented Ms. Giuffre and Victims Refuse Silence, giving advice regarding Victims Refuse Silence, starting in February 2015.

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 public interest privilege, and any other applicable privilege. Ms. Giuffre objects to the extent this seeks information regarding sexual assaults that occurred prior to her involvement with the Defendant and Jeffrey Epstein. Ms. Giuffre responds as follows: Ms. Giuffre, in accordance with the Court's direction at the hearing on April 21, 2016, has submitted documents to the Court for *In Camera* review. 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.

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 public interest 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 public interest 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 public interest 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 request in that it is overly broad and unduly burdensome, and seeks information that is not relevant to this case.

Ms. Giuffre responds as follows:

- Ms. Giuffre worked at Mar a Lago as a locker room attendant for the spa area. Records produced in this case identify the date of employment as 2000, and she recalls being there in the summer. Ms. Giuffre previously attempted to gather employment records from Mar-A-Lago. *See* Giuffre002726. She earned approximately \$9 per hour. The address is 1100 South Ocean Boulevard, Palm Beach, Florida 33480, with the telephone number of 561-832-2600
- Ms. Giuffre worked at Roadhouse Grill as a waitress in approximately 2002, but Ms. Giuffre is unsure of the exact dates of employment. Her wages primarily consisted of tips. Ms. Giuffre does not recall the location of Roadhouse Grill. A Google search for



the same yields an address at 8865 Southern Blv., West Palm Beach, FL 33411 and a telephone number of 561-651-0400.

- Ms. Giuffre worked at Employment Training and Recruitment Australia from approximately 2005 through January of 2006, but Ms. Giuffre is unsure of the exact dates of employment. Ms. Giuffre was a receptionist earning approximately \$15 per hour to the best of her recollection. Upon information and belief, this corporation is currently located in a different location from the location at which Ms. Giuffre was employed. Upon information and belief, based on an internet search, the new location of this entity is 123 Donniform Street, Gofford NSW 2250, with a telephone number of 02-4323-1233
- Ms. Giuffre worked at Gemma Catering/Wedding Receptions in approximately 2004. She received approximately \$10/hr. She does not recall the name of the proprietor nor its location.
- Ms. Giuffre worked at Manway Logistics in approximately 2003. Ms. Giuffre recalls it located in or around Sydney, Australia. An internet search yielded an address of 246 Miller Road, Villawood NSW 2163, and a phone number of 02-8707-2300. Ms. Giuffre worked as a receptionist and earned approximately \$20/hr.

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.

Ms. Giuffre is in possession of a responsive 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, freeing Ms. Giuffre from any liability whatsoever under the confidentiality provision, she will produce the document.

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**

Pursuant to this Court's Order, Ms. Giuffre will provide information for health care providers from 1999 through the present. Ms. Giuffre continues to search for medical providers that appear in documents.

- Dr. Steven Olson, St. Thomas More Hospital, 1338 Phay Avenue, Canon City, CO 81212, treated Ms. Giuffre as described in the medical records produced at [GIUFFE005342-5346](#).
- Dr. Mona Devansean, 11476 Okeechobee Blvd., Royal Palm Beach, FL. It appears Dr. Devansean is retired. We produced the letter we sent her as well as a document indicating the practice was closed at [GIUFFRE005335-](#)  
[GIUFFRE0005338](#).

- Dr. Chris Donahue, 12 Clifton Village Shopping Centre, Captain Hook Hwy, Clifton Beach, QLD 4879 is believed to have treated Ms. Giuffre. Ms. Giuffre has sent a release to Dr. Donahue, and is awaiting a response.
- Dr. John Harris and Dr. Darshanee Majaliyana at The Entrance Medical Centre, 120 The Entrance Road, The Entrance 2261, 43321300, treated Ms. Giuffre as described in the records produced at GIUFFRE005315-5322.
- Dr. Wah Wah, Central Coast Family Medicine, Unit 2, 17 Anzac Rd., Tuggerah 2259, 0243518777 treated Ms. Giuffre as described in the medical records produced at GIUFFRE005339-5341.
- Dr. M. Sellathurai (a/k/a Dr. Sella), Buss Hill Plaza, Medical Center, 753 Hume Highway, Bass Hill NSW 2197, 02297555292 treated Ms. Giuffre as described in the medical records produced at GIUFFRE005089-5091.
- Royal Oaks Medical Center, 1855 Knox McRae Dr., Titusville, FL 32780, was believed to have possibly treated Ms. Giuffre, but Medical Center responded stating that they have no records for Ms. Giuffre, *see* GIUFFRE005347-5349.
- Dr. Carol Hayek, Denison Road, Dulwich Hill, NSW 2203. Records have been requested, but thus far have been denied. Another medical release was sent and is pending.
- New York Presbyterian Hospital treated Ms. Giuffre as described in the medical records produced at Giuffre003258-3298.
- Campbelltown Hospital, 8 Moncreeff [illegible] Close, St. Helens treated Ms. Giuffre as described in the medical records produced at Giuffre003193-3257.

- Sydney West Hospital treated Ms. Giuffre as described in the medical records produced at Giuffre003291-3298.
- Westmead Hospital treated Ms. Giuffre on as described in the medical records produced at GIUFFRE003291-003298.
- As Defendant requested, Medical releases have been provided for:
  - Dr. Karen Kutikoff
  - Wellington Imaging Associates, PA
  - Growing Together

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, 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 in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the public interest privilege, and any other applicable privilege. Ms. Giuffre objects to this request on the grounds that it is overly broad and unduly burdensome, incorporating the interrogatories that total 59 subparts, and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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 and without waving the above objections, Ms. Giuffre is withholding production of documents that are privileged pursuant to the attorney-client privilege, the work product privilege, and the public interest privilege. Ms. Giuffre is also withholding electronic renditions of photographs that depict the faces of her minor children, including school portraits and other photographs taken that reveal the faces of her minor children.

Subjection to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request limited to documents that do not depict images of her minor children as described *supra* and will continue to supplement her production.

**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, and public interest, 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 and without waving the above objections, Ms. Giuffre is withholding production of documents that are privileged pursuant to the attorney-client privilege, the work product privilege, and the public interest privilege. Ms. Giuffre is also withholding electronic renditions of photographs that depict the faces of her minor children, including school portraits and other photographs taken that reveal the faces of her minor children.

Subjection to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request limited to documents that do not depict images of her minor children as described *supra* and will continue to supplement her production.

**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, public interest privilege and other applicable privileges. Ms. Giuffre objects to this request in that it is not limited in time period.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request and will continue to supplement her production. Ms. Giuffre is withholding documents that concern or relate to any currently ongoing investigation by any law enforcement agency under the public interest privilege and other applicable privileges.

**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. Specifically, Ms. Giuffre is withholding documents reflecting the engagements between herself and her attorneys she has engaged in relation to the above-captioned action and other actions as those documents involve privileged communications.

**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 objection to this request on the grounds that it is overly broad and unduly burdensome, particularly as it seeks documents relating to over 60 individuals, and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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 it seeks documents protected by the attorney-client, work product, joint defense, public interest 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.

Subject to and without waving the above objections, Ms. Giuffre is withholding production of documents that are privileged pursuant to the attorney-client privilege, the work product privilege, and the public interest privilege. Ms. Giuffre is also withholding electronic renditions of photographs that depict the faces of her minor children, including school portraits and other photographs taken that reveal the faces of her minor children.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request limited to documents that do not depict images of her minor children as described *supra* 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request and will continue to supplement her 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.

**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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce documents responsive to this Request and will continue to supplement her 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 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request and will continue to supplement her 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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 it seeks documents protected by the attorney client, work product, joint defense, public interest 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 it seeks documents protected by the attorney client, work product, joint defense, public interest or any other applicable privilege.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 it seeks documents protected by the attorney client, work product, joint defense, public interest or any other applicable privilege.

Ms. Giuffre has been unable to locate any such documents.

**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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not

reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre objects to this request to the extent it seeks documents protected by the attorney-client, work product, joint defense, public interest or any other applicable privilege.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 in that it seeks information solely to harass, embarrass, and intimidate Ms. Giuffre. Ms. Giuffre objects to this request to the extent it seeks documents protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, public interest 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 has been unable to locate any such documents.

**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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not



reasonably calculated to lead to the discovery of admissible evidence. 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 accountant client privilege, and any other applicable privilege.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre objects to this request to the extent it seeks documents protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest privilege, the public interest 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-

privileged documents responsive to this Request, 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 objections to this Request on the grounds that the time period is overly broad and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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, 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 has been unable to locate any such documents.

**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 objections to this Request on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not

reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, joint defense/common interest 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, and will continue to supplement this production. Per the agreements made in the March 21, 2016 meet and confer, we will attempt to locate and make copies of Plaintiff's current passport book.

**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 public interest privilege, and any other applicable privilege.

At this point in time, Ms. Giuffre has been unable to locate any such documents, 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 public interest privilege, and any other applicable privilege. Ms. Giuffre is in possession of a responsive document that contains a confidentiality provision. As discussed during the March 21, 2016 meet and confer, If Defendant obtains, and produces to Ms. Giuffre, a written waiver from her co-conspirator, Mr. Epstein, of the confidentiality provision, releasing Ms. Giuffre from any liability whatsoever under 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 objections to this Request on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms.

Giuffre objects to this request to the extent it seeks documents protected by the attorney client, work product, joint defense 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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.

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 to this Request on the grounds that it is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre

objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, and any other applicable privilege.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this request, 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 to this Request on the grounds that it is irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre objects in that it seeks information protected by the attorney-client privilege, the attorney work product privilege, and any other applicable privilege.

Ms. Giuffre has been unable to locate any such 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. Ms. Giuffre objects to this request in that it seeks confidential financial information Ms. Giuffre objects to this request to the extent it seeks documents protected by the attorney client, work product, joint defense, 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this request, and will continue to supplement this production.

**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, 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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 to the extent it seeks documents protected by the attorney client, work product, or any other applicable privilege.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and is producing non-privileged documents responsive to the Request limited to documents relating to prescription drugs relating to her treatment for sexual abuse she suffered at the hands of the Defendant and Jeffrey Epstein, and relating to conditions or symptoms arising after Defendant's defamatory statement, and will continue to supplement this production.

**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 public interest privilege, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-



privileged documents responsive to this Request, and will continue to supplement her production.

**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 public interest 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, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary or copyright protected materials.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will

produce non-privileged documents responsive to this Request, 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, 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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, 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, and will continue to supplement her production.

**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 in that it seeks information protected by the attorney-client privilege, the attorney work product 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, and will continue to supplement her production.

**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, 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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, and any other applicable privilege. Ms. Giuffre objects to this request to the extent it seeks proprietary and copyright protected material.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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, the public interest privilege, and any other applicable privilege.

Ms. Giuffre objects to this request to the extent it seeks proprietary and copyright protected material.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, 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 on the grounds that it is overly broad and unduly burdensome and calls for the production of documents that are irrelevant to this action and not reasonably calculated to lead to the discovery of admissible evidence. 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, public interest privilege, and any other applicable privilege.

Ms. Giuffre has been unable to locate any such documents.

**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 public interest 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.

Subject to and without waiving the above objections, Ms. Giuffre has already produced documents Bates labelled GIUFFRE000001 to GIUFFRE005353, and will produce non-privileged documents responsive to this Request, and will continue to supplement her production.

Dated: April 29, 2016

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

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**CERTIFICATE OF SERVICE**

I certify that on April 29, 2016, I electronically served *Plaintiff Virginia Giuffre's Second Amended Supplemental Responses and Objections to Defendant's First Set of Discovery*

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**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 IN OPPOSITION  
TO DEFENDANT'S MOTION FOR SANCTIONS**

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**TABLE OF CONTENTS**

	<u>Page</u>
I. INTRODUCTION .....	1
II. LEGAL ARGUMENT .....	5
A. Defendant’s Motion Should Be Denied Because it is Untimely and Defendant is Merely Trying to Deflect from Her Own Discovery Misconduct.....	5
B. There Was No Duty to Preserve The Journal Because There Was No Pending or Reasonably Foreseeable Litigation to Which Ms. Giuffre Was a Party.....	6
C. There Was No Willful Destruction of Evidence.....	8
D. Defendant Cannot Show That The Journal Was Favorable to Her.....	9
E. No Alleged Spoliation in the Context of an Unrelated Claim Attaches to a Future Defamation Claim .....	13
F. Defendant Can Show No Prejudice and She Has the “Best Evidence” .....	14
III. CONCLUSION.....	16
CERTIFICATE OF SERVICE .....	18

**TABLE OF AUTHORITIES**

<b><u>Cases</u></b>	<b><u>Page</u></b>
<i>Brigham Young Univ. v. Pfizer, Inc.</i> , 282 F.R.D. 566 (D. Utah 2012) .....	14
<i>Cedar Petrochemicals, Inc. v. Dongbu Chem. Co.</i> , 769 F. Supp. 2d 269 (S.D.N.Y. 2011).....	9
<i>Gutman v. Klein</i> , 2010 WL 4916722 (E.D.N.Y. Nov. 24, 2010).....	6
<i>In re Methyl Tertiary Butyl Ether Prods. Liab. Litig.</i> , 643 F. Supp. 2d 482 (S.D.N.Y. 2009).....	8
<i>In re Pfizer Inc. Securities Litigation</i> , 288 F.R.D. 297 (S.D.N.Y. 2013) .....	9, 13, 14
<i>Jane Doe No. #1 and #2 v. United States</i> , No. 9:08-cv-80736-KAM, S.D. Fla. [at DE 324] .....	7
<i>Kraus v. General Motors Corp.</i> , 2007 WL 3146911 (S.D.N.Y. Oct. 24, 2007).....	6, 13
<i>Mercy v. County of Suffolk</i> , 748 F.2d 52 (2d Cir.1984).....	5
<i>Orbit One Commc’ns. v. Numerex Corp.</i> , 271 F.R.D. 429 (S.D.N.Y. 2010) .....	10
<i>Treppel v. Biovail Corp.</i> , 233 F.R.D. 363 (S.D.N.Y. 2006) .....	15
<i>United States v. Aleshire</i> , 2014 WL 11394905 (W.D. Wis. Oct. 20, 2014).....	15
 <b><u>Statutes</u></b>	
18 U.S.C. § 3771.....	6
18 U.S.C. § 3771(a) .....	6
18 U.S.C. § 3771(a)(8).....	7
 <b><u>Rules</u></b>	
Fed. Rul. Evid. 401 .....	9

By and through her undersigned counsel, Ms. Giuffre hereby submits her Response in Opposition to Defendant's Motion for Sanctions. Defendant's frivolous motion should be denied. As part of a therapeutic exercise, Ms. Giuffre burned a personal journal with memories of her sexual abuse in 2013 – two years before the defamation in this case occurred and three years before this litigation began. Sanctions are, accordingly, obviously not appropriate.

## I. INTRODUCTION

On November 2, 2016, this Court entered an Order granting Ms. Giuffre an adverse inference instruction due to Defendant's willful refusal to turn over electronic discovery. Just one month later, the Defendant filed this frivolous motion, asking for an adverse inference against Ms. Giuffre because Ms. Giuffre burned an emotionally painful journal as part of a healing process – healing from Defendant's sex abuse – *two years before* this defamation cause of action accrued and *three years before* the start of this litigation,<sup>1</sup> and because Ms. Giuffre could not find a notebook in which she recorded her dreams, an item for which there is no evidence of having evidentiary value whatsoever. Significantly, there is no evidence that the dream journal became missing *after* she had a duty to preserve it, and Defendant has made no showing that Ms. Giuffre had this dream journal in her possession while she had a duty to preserve. Ms. Giuffre testified that she thought it was located in her child's closet, but upon searching for it, she was not able to find it. It is unknown even to Ms. Giuffre when it was lost.

The basic facts appear to be uncontested. As Ms. Giuffre testified in her depositions, she was sexually abused by Epstein and the Defendant in and around 2000. Then, a decade after her sexual abuse, in around 2011 and 2012, she wrote some memories of that sexual abuse in a journal. Then in 2013, she burned that journal as a "spiritual" exercise to help her heal from the

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<sup>1</sup> Indeed, Defendant raised this same issue at this Court's hearing back in May of 2016, yet Defendant waited seven months, until after the Court issued an adverse inference against her, to file this motion for sanctions.

sexual abuse. Of course, the facts at issue in this case began in January 2015, when Defendant defamed Ms. Giuffre, leading to this lawsuit, filed in September 2015. Ms. Giuffre also testified that, at one point, she had a dream journal, but never testified that she had her dream journal during the pendency of this litigation or that her dream journal had anything related to this litigation within it.

Ms. Giuffre performed a diligent search for all documents even potentially connected to this case. She produced a 141 page manuscript from her electronic files, which was also written in 2011; she produced a huge number of photographs and travel documents from the time Defendant and Epstein abused her; and she produced a copious amount of ESI from various sources. To leave no stone unturned, Ms. Giuffre paid \$600 to retrieve storage boxes from a remote location and produced additional photographs found within those boxes. After a diligent search with the assistance of her attorneys, Ms. Giuffre was unable to locate the spiral bound notebook into which she used to record some of her dreams. However, the great number of documents produced by Ms. Giuffre, and those produced by third-parties, unambiguously point to the conclusion that this dream book would not have been useful to Defendant, because if it included anything related to this matter, it would likely have simply contained additional notes about Defendant's involvement with Epstein in abusing her.

From these simple facts, Defendant now seeks to spin a claim of "intentional destruction of evidence." That the Defendant is asking the Court to somehow penalize Ms. Giuffre for taking a step to heal from Defendant's sexual abuse is perverse. In any event, it is wholly unsupported in law, as no duty exists to preserve documents before a cause of action accrues. Of course, Ms. Giuffre could not predict in 2013 that Defendant would later defame her in 2015. Therefore, Ms. Giuffre had no duty to preserve anything at that point in time. And, in any event,

she has performed a diligent search to locate all potentially relevant documents. Ms. Giuffre was unable to find anything connected with the dream journal, which is obviously why she could not produce it.

Defendant is unable to cite even a single case in which any court has imposed a “sanction” for document destruction entirely unrelated to the case before the court. Seeming to recognize this problem, Defendant claims that Ms. Giuffre somehow was obligated to preserve her journal in 2013 because she was contemplating joining a case involving the Crime Victims Rights Act (CVRA) against the federal government then pending in the Southern District of Florida. If we understand the chain of reasoning correctly, Defendant apparently argues that (1) Ms. Giuffre’s mere interest in the CVRA case in 2013, which later matured into a motion to join in 2014, somehow triggered some duty to preserve the notes about sex abuse (which she had made earlier in her journal in 2011 and 2012) when she was considering burning the notes in 2013; (2) that duty to preserve those notes in 2013 potentially related to the motion she filed in the CVRA case in 2014; and (3) that such a duty, somehow, attaches to a defamation claim due to statements made by the Defendant in 2015. This contrived argument is wholly without merit for several reasons. First, Ms. Giuffre had no duty to preserve her journal in 2013. Second, even if any duty arose (which it did not), the duty would have been to the U.S. Attorney’s Office – which has not made any argument that its interests have been impaired. Third, any duty to preserve the journal would have been in connection with *that* litigation, not this defamation case which arose several years later. Fourth, in any event, Ms. Giuffre has produced a lengthy, 141-page draft manuscript that was written in 2011, the same year she was writing in her journal, as well as the notes from her treating psychologist from the same year.

Tellingly, Defendant cites no case law – in any jurisdiction – to support the proposition that any duty to preserve materials for a federal crime victim’s right case in the past (let alone one that involved wholly different parties and wholly different causes of action) somehow transfers to a New York state law defamation claim involving a different party that arose years later. To the contrary, even rulings in the Southern District of New York hold the opposite, but Defendant failed to cite those rulings. Instead, Defendant’s brief quotes extensively from cases in which parties destroyed evidence *after* the cause of action accrued and *after* the parties had notice of a duty to preserve. Those are inapposite.

Because this is a losing argument for the Defendant, unsupported by law or logic, Defendant’s brief turns to fiction and fancy, making inflammatory claims against Ms. Giuffre and her attorneys that have absolutely no basis in fact. For example, Defendant’s brief states that “there is reason to suspect that Plaintiff acted in concert with or was encouraged by her attorneys to embellish her story.” Motion at 12. Tellingly absent from Defendant’s brief are any “reasons” or supporting facts for that allegation.

This Court has previously instructed Defendant to discontinue filing “frivolous or vexatious motions” based upon nothing but “a supposing of bad faith,” “lacking sufficient factual support to support a colorable argument:”

Having provided no grounds to doubt the sworn representations of Plaintiff’s counsel, Defendant’s motion to compel these communications is denied. Defendant is granted leave to refile the motions with respect to media and business advice on the basis of relevant and non-specious factual support. Court intervention should not be invoked to resolve routine discovery matters on the basis of a supposition of bad faith. Further filing of frivolous or vexatious motions lacking sufficient factual support to support a colorable argument (or on the basis of misrepresented or false facts or law) will be met with sanctions.

June 20, 2016, Sealed Order at 13-14. The Defendant ignored this Order, and her motion should be denied.

## II. LEGAL ARGUMENT

### A. Defendant's Motion Should Be Denied Because it is Untimely and Defendant is Merely Trying to Deflect from Her Own Discovery Misconduct

The first reason the Court should deny this motion is that it is simply and obviously untimely. Defendant complained to this Court at least as early as May 2016, that Ms. Giuffre had a bonfire two years prior to Defendant's defamation. As counsel for Ms. Giuffre said at the time:

There is absolutely no reason why my client should reasonably anticipate that her sex abuser would defame her in the global stage at that point [when she held the bonfire]. She is a child victim of sex abuse at the hands of the defendant [and] co-conspirators, and she decided to burn certain memories as a step toward the healing process. That is outside the control of counsel and certainly unrelated to anything going on in an action filed in 2015.

May 12, 2016 Hr. Tr. at 10:1-8.

Yet while these issues were before the Court by (at least) May, Defendant waited an additional *seven months* to file this motion that she claims should result in *the complete dismissal* of this action. Such delay is unreasonable. The Second Circuit has held that "a motion for Rule 37 sanctions should be promptly made thereby allowing the judge to rule on the matter when it is still fresh in his mind." *Mercy v. County of Suffolk*, 748 F.2d 52, 56 (2d Cir.1984). Defendant gives no reason why she did not present this issue to the Court last May, and she cites no new information in her brief that developed during that time. Instead, the only intervening development with some connection to the motion may be this Court's November 2, 2016, Order, which concluded that the Defendant had withheld discovery materials. A few weeks later, the Defendant filed this motion accusing Ms. Giuffre of withholding discovery materials.<sup>2</sup>

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<sup>2</sup> Defendant appears to have a pattern of filing seemingly tit-for-tat motions. In many such motions, Defendant copies the language of Plaintiff's briefs word-for-word, despite there being few, if any, factual similarities. See, e.g., Plaintiff's Motion to Compel for Improper Claim of



The key fact is that Defendant fails to offer any explanation whatsoever for her delay in bringing this motion. Therefore, this Court should reject Defendant's motion as untimely. *See Gutman v. Klein*, 2010 WL 4916722, at \*8 (E.D.N.Y. Nov. 24, 2010) (denying sanctions motion, in part, as untimely).

**B. There Was No Duty to Preserve The Journal Because There Was No Pending or Reasonably Foreseeable Litigation to Which Ms. Giuffre Was a Party**

Turning to the merits of Defendant's motion, Ms. Giuffre could not have violated any duty to preserve her journal because no such duty existed. "Spoliation is the destruction or significant alteration of evidence, or the failure to preserve property for another's use as evidence in pending or reasonably foreseeable litigation." *Kraus v. General Motors Corp.*, 2007 WL 3146911, at \*1 (S.D.N.Y. Oct. 24, 2007) (denying sanctions). Defendant fails to meet her burden because when Ms. Giuffre burned her journal in 2013, this litigation (filed in 2015) was not "pending." Nor was this litigation "reasonably foreseeable." In 2013, Ms. Giuffre had no way of foreseeing that, two years later in 2015, the Defendant would maliciously defame her. Defendant's motion should be denied on this ground alone.

Attempting to manufacture such a duty, Defendant points to the fact that in 2013, Ms. Giuffre was considering joining the CVRA case in Florida. It is also important to understand the context of that case. As the Court will recall from earlier briefing, in 2008, two child sexual abuse victims of Jeffrey Epstein brought suit against the United States Attorney for the Southern District of Florida under the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771. The cause of action was premised upon the U.S. Attorney Office's failure to timely notify Epstein's victims of Epstein's non-prosecution agreement, as required under 18 U.S.C. § 3771(a). Six years after the lawsuit's inception, on December 30, 2014, Ms. Giuffre filed a motion to join the CVRA

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Privilege (DE 33) (granted in part), and Defendant's Motion to Compel for Improper Claim of Privilege (DE 155) (denied).

case. Several months later, Judge Marra denied Ms. Giuffre's motion. *See* April 7, 2015, Order Denying Petitioners' Motion to Join under Rule 21 and Motion to Amend under Rule 15, *Jane Doe No. #1 and #2 v. United States*, No. 9:08-cv-80736-KAM, S.D. Fla. at DE 280 and DE 324.

This ruling alone eliminates any duty that even arguably could have attached to Ms. Giuffre in 2013 – any contemplated litigation simply never later materialized. But, in any event, any duty that Ms. Giuffre may have had related to the CVRA case would have run to the sole defendant in that case – the U.S. Attorney's Office. The Office had years earlier (in 2008) identified Ms. Giuffre as a protected "victim" of Jeffrey Epstein's sex abuse, even mailing to Ms. Giuffre a notice of her rights as a crime victim under the CVRA. *See* Schultz Dec. at Exhibit 1, Victim Notification Letter. Accordingly, Ms. Giuffre's status as a "victim" could never have been an issue in the CVRA case. The limited issue in the CVRA case is whether the Government properly discharged its duties to the victims to confer with them and notifying them of the non-prosecution agreement it signed with Jeffrey Epstein. The journal could only have related to issues about Ms. Giuffre's victimization, and thus even in the unrelated CVRA case, which Ms. Giuffre was not allowed to join, the journal was not relevant.

Beyond these problems for Defendant's argument here, in 2014 the only duty that Ms. Giuffre could have had would have been to the U.S. Attorney's Office. That Office presumably would have encouraged Ms. Giuffre to undertake whatever steps were needed to facilitate her healing from the terrible crimes Epstein and his co-conspirators inflicted on her. *See* 18 U.S.C. § 3771(a)(8) (requiring federal government to treat crime victims "with fairness and with respect for the victim's dignity and privacy"). Defendant's claim here necessarily requires that Defendant step into the Government's shoes to establish a breach of duty. Ms. Giuffre has

violated no duty she directly owed to the Government, and thus violated no duty she (arguably) indirectly owed to the Defendant.

**C. There Was No Willful Destruction of Evidence**

An additional reason for denying the motion is that Ms. Giuffre lacked any “culpable” state of mind. “A party must have acted in bad faith – intentionally or willfully – in order to have a sufficiently culpable state of mind warranting an adverse inference . . . [which] may be met through ordinary negligence.” *See In re Methyl Tertiary Butyl Ether Prods. Liab. Litig.*, 643 F. Supp. 2d 482, 495-96 (S.D.N.Y. 2009) (denying sanctions) (internal quotations omitted). In burning her journal, in which she had written painful memories of repeated sexual abuse, Ms. Giuffre did not have a culpable state of mind, nor was she negligent. To the contrary, as Defendant conceded in her moving brief, Ms. Giuffre testified – at two depositions - that she burned her journal as a “spiritual” act of healing from her sexual abuse in an effort to move forward with life. Specifically, as Defendant notes, Ms. Giuffre testified, “I was burning like memories, thoughts, dreams that I had, just everything that was kind of affiliated with the abuse I endured”. *See* Schultz Decl. at Exhibit 2, January 16, 2016, Giuffre Dep. Tr. at 64:24-65:3. Ms. Giuffre also testified, “. . . it was not under the instruction of my lawyers to do this. My husband and I were pretty spiritual people and we believed that these memories were worth burning.” *See* Schultz Decl. at Exhibit 3, May 3, 2016, Giuffre Dep. Tr. at. 205:25-206:3.

Accordingly, Ms. Giuffre’s state of mind was that of a child sex abuse victim who later, in pain, attempted to achieve spiritual recovery by burning memories she had recently recorded of the sex abuse – abuse, it is worth recalling, she endured at the hands of Defendant and Epstein. Importantly, as Defendant concedes, this journal was not created at the time Defendant and Epstein subjected her to sexual abuse. (Q. “So you did not write this journal at the time it happened?” A. “No.” Q. “You started writing this journal approximately a decade after you

claim you finished being sexually trafficked, correct?” A. “Yes.” *Id.* at 206:16-22). Even if Ms. Giuffre contemplated any litigation having anything to do whatsoever with what was in that journal, she had no notice of any duty to preserve notes she had written as a healing exercise. Accordingly, Defendant’s motion fails for this reason as well.

**D. Defendant Cannot Show That the Journal Was Favorable to Her**

Ms. Giuffre did not act willfully (or even negligently in 2013) when she burned some memories she wrote down as a healing exercise from her childhood sexual abuse, an exercise undertaken long before becoming at all involved in any litigation, and long before Defendant defamed her. However, even if we assume that Ms. Giuffre was negligent (which she wasn’t), Defendant is only entitled to pursue relief if the materials destroyed were favorable to her case. Defendant cannot come close to meeting that burden.

“If the spoliating party has acted only negligently, the moving party can satisfy the final requirement of the spoliation analysis if it can show that the lost materials were relevant.” *In re Pfizer Inc. Securities Litigation*, 288 F.R.D. 297, 315 (S.D.N.Y. 2013) (denying sanctions).<sup>3</sup> “[T]he Court of Appeals has held that for the destroyed evidence to be ‘relevant’ it must be ‘more than sufficiently probative to satisfy Rule 401 of the Federal Rules of Evidence.’” *Id.* A party may establish relevance by “adduc[ing] sufficient evidence from which a reasonable trier of fact could infer that ‘the destroyed [or unavailable] evidence would have been of the nature alleged by the party affected by its destruction.’” *Id.* Put more succinctly, a plaintiff must present extrinsic evidence that tends to show that the destroyed documents would have been favorable to her case. *See Cedar Petrochemicals, Inc. v. Dongbu Chem. Co.*, 769 F. Supp. 2d 269, 292 (S.D.N.Y. 2011) (denying sanctions). Indeed, “relevance requires a showing beyond

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<sup>3</sup> The *Pfizer* Court applies a negligence standard which is applicable to the documents at issue here, should this Court find that any duty attaches, which it does not, as explained above.

the straightforward assertion that the opposing party has failed to produce requested information.” *Id.* at 293 (quoting *Orbit One Commc’ns. v. Numerex Corp.*, 271 F.R.D. 429, 440 (S.D.N.Y. 2010) (denying sanctions)).

Defendant fails to show that the materials are “relevant” – that is, that the writings in Ms. Giuffre’s journal would be favorable to Defendant. To the contrary, all evidence in the record indicates that this journal would be highly unfavorable to Defendant.

First, Ms. Giuffre has testified that it contains her recollections of her sex abuse, and Ms. Giuffre has testified that Defendant abused her:

Q. So you burned notes of the men with whom you had sex while you were represented by counsel in litigation, correct?

A. This wasn't anything that was a public document. This was my own private journal, and I didn't want it anymore. So we burned it.

*See* Giuffre May 3, 2016 Dep. Tr. at 206. Indeed, a contemporaneous document, the manuscript, stated the same thing:

Nobody ever stopped to ask if I was comfortable or if I wanted to stop, no, instead, Ghislane [sic] only directed me to conclude the massage session by climbing up on the table to be fixated on Jeffrey, straddling him so he could [EXPLICIT] me . . . Jeffrey moaned in pleasure and Ghislane [sic] started to undress me from behind. Within moments I was completely naked and Ghislane [sic] had her top off . . . she sure did act like she loved having the control over me telling me what to do throughout the entire threesome.

Manuscript at p. 25-26; 29 (GIUFFRE004158-4159). Accordingly, the evidence shows that the journal would implicate Defendant in sexual abuse.

The evidence does not end there. Documents created contemporaneously with Ms. Giuffre authoring the journal – documents produced to Ms. Giuffre *by a third party* – strongly indicate that the journal’s contents would be highly unfavorable to Defendant. Indeed, in the moving brief, Defendant recounts testimony that this journal was authored in 2011 and 2012. At the same time, in 2011, Ms. Giuffre received treatment for her past sex abuse from her

psychologist, Judith Lightfoot. Ms. Lightfoot's own records, *written in 2011*, describe

Defendant as Ms. Giuffre's abuser:

. . . was approached by Ghislaine Maxwell who said she could help her get a job as a massage therapist . . . seemed respectable . . . was shown how to massage, etc., Geoff [sic] Epstein. Told to undress and perform sexual acts on person. Miss Maxwell promised her \$200 a job.

See Schultz Decl. at Exhibit 4, June 9, 2011 Lightfoot Records at GIUFFRE005437.

As the Court can see, the same year Ms. Giuffre wrote in her journal about the abuse she endured, she wrote a manuscript detailing that abuse, and *confided in her treating psychologist that Maxwell recruited her for sex with Epstein*. Therefore, the contemporaneous records evidence Defendant's guilt, and indicate that similar statements would be in Ms. Giuffre's journal. Accordingly, this journal would merely be cumulative with the volumes of other evidence showing Defendant's involvement in the sexual abuse of Ms. Giuffre.

Indeed, contemporaneous with Defendant's abuse in the 2000-2002 time period, Tony Figueroa testified that Virginia confided in him that Defendant required her to participate in threesomes with Defendant and Epstein during the time it happened:

Q. I guess my question is: Did she ever tell you that she had started as a regular masseuse for him and then transitioned to something other than a masseuse?

A. No. She never said that it transitioned. But she ended up explaining to me what had happened before, so...

Q. What has -- what is that?

A. That her and Ms. Maxwell and Jeffrey would obviously be doing stuff, all three of them together. Like I said, that they would all go out to clubs to pick up girls and try and find them to bring back for Jeffrey. And then she told me about how, like I said, her and Ms. Maxwell and Jeffrey were all intimate together on multiple occasions.

Q. When did she tell you this?

A. I'm not exactly sure on the dates.

Q. Was it while you were still together?

A. Yes.

Figueroa Dep. Tr. at 96:1-19.

When Defendant argues that the journal or the dream journal would be unfavorable to Ms. Giuffre, Defendant ignores these and other damning facts. Defendant, again, fails to cite any countervailing fact, fails to point to any other evidence, and quotes no other testimony to support her argument that the journals would somehow be favorable to her. Instead, Defendant engages in wild speculation upon a mere “supposition of bad faith.” *See* Motion at 12, second paragraph. Defendant does not attempt to cite any evidence to support these conspiracy theories, as Ms. Giuffre herself has described the contents of one her journal as memories of her sex abuse and the contents of the other “dream”<sup>4</sup> journal of her (literal) dreams (that they occurred while she was asleep). Defendant does not explain what the evidentiary value of a party’s dreams may have regarding a defamation claim, nor could she.

Accordingly, Defendant’s motion should fail for this reason as well – she cannot make any showing whatsoever (much less carry her burden of proof) that the journal would be favorable to her. And, she completely ignores the blindingly obvious fact that the journal would likely be, if anything, highly favorable to Ms. Giuffre, it would simply contain more documentation of Defendant’s involvement in sexual abuse.

---

<sup>4</sup> Q. What do you do with those notes?

A. Nothing, literally nothing. They’re in a notebook that if I need to write it down. I have a dream notebook as well where I’ll just write down my dreams and stuff.

January 16, 2016, Giuffre Tr. at 195:15-19.

**E. No Alleged Spoliation in the Context of an Unrelated Claim Attaches to a Future Defamation Claim**

Yet another fatal problem for Defendant's motion is that it rests on the premise that Ms. Giuffre violated a duty to preserve evidence that arose in a *different case*. The attenuated chain of reasoning is that Ms. Giuffre's duty to preserve this journal with respect to *this* case arose in 2013, when she heard about *another* case – the CVRA case (long before she and her attorneys made the decision to attempt to join that litigation). However, Southern District of New York courts have rejected this very argument that a duty to preserve can arise from unrelated litigation. *See, e.g., In re Pfizer Inc. Securities Litigation*, 288 F.R.D. at 316 (holding no breach in duty to preserve where documents allegedly relevant to a previous litigation were not retained). In *Pfizer*, this Court explained:

I conclude that Pfizer's duty to preserve in this case arose in 2004, not in 2001. The 2001 lawsuit was a patent action related to the identification of the enzyme that led to the development of Celebrex and Bextra. As such, it raised different factual issues from the instant action and would not have given Pfizer reasonable notice of the foreseeability of this securities fraud litigation.

*Id.* at 316. Similarly, in 2013, Ms. Giuffre had not even made her application to join the CVRA case, a case that raises different factual issues from the instant action, namely, whether the United States District Attorney for the Southern District of Florida failed to discharge its statutorily-mandated duty to Epstein's victims upon entering into a plea agreement with Epstein. Ms. Giuffre's supposed 2013 contemplation of the CVRA litigation against the government under an unfamiliar federal victims' rights statute would not have given Ms. Giuffre (a non-lawyer who was not a party to that action) reasonable notice of the foreseeability of Ms. Maxwell defaming her on a global stage two years later. *Cf. Kraus v. Gen. Motors Corp.*, 03 Civ. 4467 (CM), 2007 WL 3146911, at \*2 (S.D.N.Y. Oct. 24, 2007) (McMahon, D.J.) (defendant was under no duty to preserve a car as evidence in products liability suit before complaint was filed



because it had not been previously notified of any injury that might reasonably lead to litigation and no litigation had been threatened); *Brigham Young Univ. v. Pfizer, Inc.*, 282 F.R.D. 566, 572 (D. Utah 2012) (rejecting argument that Pfizer's duty to preserve extended back to earlier, unrelated litigations).

The *Pfizer* court further explained: "In addition, the duty to preserve only extends to documents relevant to the claim of which the party has notice." *In re Pfizer Inc. Securities Litigation*, 288 F.R.D. at 317 (emphasis added). To the extent Ms. Giuffre's 2011-2012 journal is somehow relevant to the claim at issue in this case, there was no duty to preserve because the defamation claim against Defendant did not arise until 2015 and the earlier case involved a different issue. Similarly, Defendant makes no showing that Ms. Giuffre had possession of the dream journal during 2015, nor that it is relevant such that any duty attaches to it.

**F. Defendant Can Show No Prejudice and She Has the "Best Evidence"**

Still another fatal problem for Defendant's argument is that she has received substantial information parallel to the journal Ms. Giuffre kept. Defendant has thus suffered no prejudice. As the Court is aware from previous discovery motions, Ms. Giuffre has produced a vast amount of material in this matter, including materials from the time of her abuse and from the time she kept her journal. Of particular note are a 141-page draft manuscript she wrote in 2011, around the same time as the journal, as well as numerous e-mail communications, and even pictures and travel receipts from the years 2000-2002. Of course, the materials from 2000-02 (photos, travel records, flight logs, etc.) were all created contemporaneously with Ms. Giuffre's abuse, and would thus serve as the "best evidence" of what was happening then. (The Court will no doubt recall Defendant's failing memory concerning events that happened at that time, such as Defendant's failure to be able to recollect even one of the 23 flights on which she is listed as having traveled with Epstein and Ms. Giuffre, during the time Ms. Giuffre was a minor child.)

Even turning to the later time period when Ms. Giuffre wrote her journal, Defendant has better records than the journal which she can review – .e.g., the psychological records specifically naming the Defendant as involved in Ms. Giuffre’s sexual abuse and Ms. Giuffre’s 141-page manuscript. Against this backdrop of many other available materials, the burned journal is obviously nothing more than cumulative corroborating evidence.

Second, with regard to Defendant’s second, fallback argument regarding the dream journal (which Ms. Giuffre has diligently searched for but been unable to locate), nothing suggests it contains any relevant content. Perhaps Defendant is going to argue that Ms. Giuffre’s dreams are somehow inconsistent with her sworn testimony, but this would be pseudo-science that has no place before the jury. *Cf.* SIGMUND FREUD, *THE INTERPRETATION OF DREAMS* (1889) (developing theory of the unconscious with respect to dream interpretation). Defendant’s brief gives no hint as to what purpose notes about dreams could have in this litigation. *Cf. United States v. Aleshire*, 2014 WL 11394905, at \*6 (W.D. Wis. Oct. 20, 2014) (“dreams themselves, however, would not be admitted”). In any event, Ms. Giuffre diligently attempted to locate these notes but could not find them. *Cf. Treppel v. Biovail Corp.*, 233 F.R.D. 363, 374 (S.D.N.Y. 2006) (“Even in a case involving exclusively hard copy documents, there is no obligation on the part of a responding party to examine every scrap of paper . . . Rather, it must conduct a diligent search, which involves developing a reasonably comprehensive search strategy.”). And there is no evidence that the dream journal was lost during (or even shortly before) the pendency of this litigation.

If anything, Defendant’s argument about the dream notes shows how far afield she had to go from the core issues in this case. Recall the basic outlines of this case: Ms. Giuffre filed a court document alleging that she had been sexually abused by Defendant and others. Defendant

called Ms. Giuffre a liar. Ms. Giuffre then filed this defamation suit, alleging that her allegations of sexual abuse were true. Ms. Giuffre gave her sworn testimony that the allegations were true and deposed multiple witnesses who supported her position. On the other hand, Defendant gave her sworn testimony that she, quite conveniently, could not remember the important events of the time (such as flying on 23 flights with Ms. Giuffre as a minor child and Epstein). Having failed to remember the critical events – and having failed to produce important documents about these events<sup>5</sup> – Defendant propounded extensive discovery to Ms. Giuffre, to which Ms. Giuffre has diligently attempted to respond. Now, as the trial for this case is approaching, Defendant has filed a last ditch motion to dismiss, claiming that Ms. Giuffre’s missing notes of her dreams are somehow such critical information that the defamation case should be dismissed. To simply describe the argument is to show how far-fetched Defendant’s position has become. The Court should deny this frivolous motion and prepare to try this case on March 13, 2017.

### III. CONCLUSION

The Defendant’s motion for sanctions due to Ms. Giuffre’s destruction of materials for entirely benign reasons, long before this litigation ever arose, should be denied in its entirety.

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<sup>5</sup> A conveniently failing memory is not the only way in which Defendant has kept evidence of involvement in sexual abuse from being discovered. The day that the Palm Beach Police executed the warrant on Defendant and Epstein’s home, Defendant called the housekeeper and told her not to come in that morning. See Schultz Decl. at Exhibit 5, Louella Rabuyo’s October 20, 2009 Dep. Tr. at 9; 11; 81-82. Once the police arrived, they found that the computers had been ripped out of their places, leaving the monitors, mice, keyboards, and wires behind. See Schultz Dec. at Composite Exhibit 6, Police Report at p. 63, GIUFFRE000064; Recarey Dep. Tr. 72:25-73:18. This Court is also aware of multiple events triggering Defendant’s duty to preserve documents. For example, Defendant avoided her 2009 deposition in a case concerning Epstein by falsely claiming to be out of the country (she was, instead, photographed at Chelsey Clinton’s New York wedding). Additionally, in her Motion to Dismiss, Defendant claimed that in both 2011 and 2015, she anticipated bringing litigation against tabloids. Defendant has not produced documents that she should have preserved pursuant to the police investigation, the 2009 litigation, and her purported anticipated suits against the press as recently as 2015. And, on top of all this, the Court is aware of the Defendant’s failure to produce discovery, which lead to sanctions as ordered in November.

Dated: December 16, 2016

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Meredith Schultz

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 16th day of December, 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 L. Schultz  
Meredith L. 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 MEREDITH SCHULTZ IN SUPPORT OF PLAINTIFF'S  
RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS**

I, Meredith Schultz, declare that the below is true and correct to the best of my knowledge as follows:

1. I am an associate 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 Response In Opposition To Defendant's Motion For Sanctions.
3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of September 2, 2008, Victim Notification Letter (GIUFFRE001203-GIUFFRE001205).
4. Attached hereto as Sealed Exhibit 2 is a true and correct copy of Excerpts of January 16 2016, Deposition of Virginia Giuffre.
5. Attached here to as Sealed Exhibit 3 is a true and correct copy of Excerpts from May 3, 2016, Deposition of Virginia Giuffre.
6. Attached hereto as Sealed Exhibit 4 is a true and correct copy of June 9, 2011 Records from Dr. Judith Lightfoot (GUIFFRE005437).

7. Attached hereto as Sealed Exhibit 5 is a true and correct copy of Excerpts from October 2009, Deposition of Louella Rabuyo.

8. Attached hereto as Sealed Composite Exhibit 6 are true and correct copies of Palm Beach Police Report (GIUFFRE000064) and Excerpts from June 21, 2016 Deposition of Detective Joseph Recarey.

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

/s/ Meredith Schultz  
Meredith Schultz, Esq.

Dated: December 16, 2016.

Respectfully Submitted,

By: /s/ Meredith Schultz  
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I HEREBY CERTIFY that on the 16th day of December, 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 5**  
**(FILE UNDER SEAL)**

09 - 22783

**Condensed Transcript**

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

L.M.,

Plaintiff,

vs.

CASE No.

502008CA028051XXXXMB AB

JEFFREY EPSTEIN,

Defendant.  
~~~~~

**DEPOSITION OF  
LOUELLA RABUYO  
VOLUME I**

October, 20, 2009  
10:10 a.m.

515 N. Flagler Drive  
Suite 200-P  
West Palm Beach, Florida 33401

Reported By: Teresa Whalen, RPR, FPR, Notary Public, State of Florida



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| <p style="text-align: center;">9</p> <p>1 head or shake your head, and she can't take that down.</p> <p>2 A All right.</p> <p>3 Q It's also very easy to say uh-huh or huh-uh,</p> <p>4 but it kind of looks the same on paper, so you can't do</p> <p>5 that either. I'm going to wait until you finish your</p> <p>6 answer, and you have to wait until I finish my question,</p> <p>7 because if we talk over one another, then the court</p> <p>8 reporter can't get it down.</p> <p>9 A Okay. Yes, sir.</p> <p>10 Q All right. So if you don't understand the</p> <p>11 question, tell me you don't understand and I'll try to</p> <p>12 ask a better question.</p> <p>13 A Yes.</p> <p>14 Q Okay. So you were hired in November of 2004</p> <p>15 to be the housekeeper for Mr. Epstein?</p> <p>16 A Yes.</p> <p>17 Q And when you were hired, who exactly hired</p> <p>18 you, who -- let me strike that.</p> <p>19 When you were hired to be the housekeeper for</p> <p>20 Mr. Epstein, who did you interview with?</p> <p>21 A Ms. Maxwell.</p> <p>22 Q Is that Ghislaine Maxwell or just</p> <p>23 Laine Maxwell?</p> <p>24 A Ghislaine Maxwell.</p> <p>25 Q And where did the interview take place?</p>                                                                                                    | <p style="text-align: center;">11</p> <p>1 that it's clean and appropriately, what's this...</p> <p>2 Q And as I understand this property, there is a</p> <p>3 main house and then there's also a staff house on the</p> <p>4 property; is that right?</p> <p>5 A Yes, sir.</p> <p>6 Q And when the guests would come over, would you</p> <p>7 stay in the main house, or would you go to the staff</p> <p>8 house?</p> <p>9 MR. REINHART: Can we get a time frame to the</p> <p>10 question?</p> <p>11 BY MR. EDWARDS:</p> <p>12 Q Over the last five years while you worked</p> <p>13 there.</p> <p>14 A I usually stay in the staff house and do the</p> <p>15 laundry, then I go to the kitchen and then tidy the</p> <p>16 kitchen.</p> <p>17 Q You were hired in November of 2004, and what</p> <p>18 were your hours that you worked there back in November</p> <p>19 of 2004 when you were hired?</p> <p>20 A Eight to five.</p> <p>21 Q How many days a week?</p> <p>22 A Depends.</p> <p>23 Q How would the schedule be relayed to you?</p> <p>24 A When Mr. Epstein is there, then I'm supposed</p> <p>25 to report, but usually it's five days a week.</p>                                                                                    |
| <p style="text-align: center;">10</p> <p>1 A At 358 El Brillo Way.</p> <p>2 Q And what did Ms. Maxwell and you speak about</p> <p>3 prior to your being hired as the housekeeper?</p> <p>4 A My duties.</p> <p>5 Q And what did she tell you your duties would</p> <p>6 be?</p> <p>7 A To tidy, to make beds, do laundry.</p> <p>8 Q Did she tell you what would take place in the</p> <p>9 house on a day-to-day basis?</p> <p>10 A No.</p> <p>11 Q So going into that position, you had no idea</p> <p>12 who the guests would be or who the people coming in the</p> <p>13 house would be, or what would generally go on?</p> <p>14 A Can you simplify the question?</p> <p>15 Q Sure. When you talked about with</p> <p>16 Ghislaine Maxwell at this interview, your duties being</p> <p>17 you would make the bed and tidy up, did she also tell</p> <p>18 you that there would be a lot of guests, there would be</p> <p>19 a few guests, did she talk to you about that at all?</p> <p>20 A She mentioned that if there are guests, we</p> <p>21 have to, like, you know, prepare the room, and, what's</p> <p>22 this, attend to the guests.</p> <p>23 Q And what did you understand that to mean that</p> <p>24 you have to attend to the guests?</p> <p>25 A You have to prepare the room and see to it</p> | <p style="text-align: center;">12</p> <p>1 Q So am I correct in understanding that there</p> <p>2 was one schedule when Mr. Epstein was in town, and the</p> <p>3 schedule may be a little bit different if Mr. Epstein</p> <p>4 was out of town?</p> <p>5 A Yes, sir.</p> <p>6 Q All right. Tell me the differences when</p> <p>7 Mr. Epstein is in town versus when Mr. Epstein was not</p> <p>8 in town.</p> <p>9 A If he stays like three or four days, then I'm</p> <p>10 supposed to be there, and then the house is to be</p> <p>11 cleaned. And then when they do not come, then I can</p> <p>12 either go there, or I'm given free days off.</p> <p>13 Q Three days off?</p> <p>14 A No. A free day.</p> <p>15 Q Oh, okay. But typically back in 2004 when you</p> <p>16 were hired, you worked an average of about five days a</p> <p>17 week; is that correct?</p> <p>18 A Yes.</p> <p>19 Q All right. And I guess by the way that you're</p> <p>20 explaining it, if Mr. Epstein was in town for a longer</p> <p>21 period of time, you may work more than five days, and if</p> <p>22 Mr. Epstein was not in town, you may work less than five</p> <p>23 days?</p> <p>24 A Yes.</p> <p>25 Q Okay. Did you ever talk to Mr. Epstein prior</p> |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| 81                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 83                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>1 A When I came back to report, that's how I</p> <p>2 learned.</p> <p>3 Q Elaborate on that for me. What do you mean,</p> <p>4 when you came back to report that's how I learned?</p> <p>5 A I reported in the afternoon, and then that's</p> <p>6 how I learned that the police came.</p> <p>7 Q All right. And when were you -- you're now</p> <p>8 saying you came back to report and you learned that the</p> <p>9 police had already come to the house, right?</p> <p>10 A Yes, sir.</p> <p>11 Q Prior to that occasion, when was the previous</p> <p>12 time that you were at the house?</p> <p>13 A The day before.</p> <p>14 Q Okay. And the day before you left your shift</p> <p>15 at roughly five o'clock?</p> <p>16 A I cannot remember. I usually leave 5:00 or</p> <p>17 5:30.</p> <p>18 Q But sometime late in the afternoon?</p> <p>19 A Yes.</p> <p>20 Q And as of that time, the day before the search</p> <p>21 warrant was issued, you had seen no police officers in</p> <p>22 or around the house?</p> <p>23 A No.</p> <p>24 Q And then the next day you reported to the job</p> <p>25 at what time?</p> | <p>1 Q So are we talking about the day the police</p> <p>2 went to Jeffrey Epstein's house you did not go in the</p> <p>3 morning, but you went after lunch and the police had</p> <p>4 already left?</p> <p>5 A Oh. No. When I went there nobody was there,</p> <p>6 no policemen were around.</p> <p>7 Q Who was at the house then?</p> <p>8 A Janusz, and Douglas, the architect.</p> <p>9 Q Schoettle?</p> <p>10 A Yes.</p> <p>11 Q And did you have a discussion with them?</p> <p>12 A No.</p> <p>13 Q How did you know the police had been to the</p> <p>14 house?</p> <p>15 A Janusz told me.</p> <p>16 Q When?</p> <p>17 A When I arrive.</p> <p>18 Q That's what I was asking you when I said did</p> <p>19 you have a discussion with them, meaning Janusz and</p> <p>20 Douglas.</p> <p>21 A Okay. Being because them -- with Janusz only.</p> <p>22 Q What did he say?</p> <p>23 A He said the police came and, what's this, took</p> <p>24 away some stuff.</p> <p>25 Q Did he say what they took?</p>                                                                          |
| 82                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 84                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>1 A The next day?</p> <p>2 Q The next day.</p> <p>3 A I report in the afternoon.</p> <p>4 Q Was there a reason why you reported in the</p> <p>5 afternoon?</p> <p>6 A Ms. Maxwell called me.</p> <p>7 Q When did she call you?</p> <p>8 A During that day, she said Louella, you can</p> <p>9 report in the afternoon.</p> <p>10 Q She called you early in the morning?</p> <p>11 A Not early.</p> <p>12 Q Normally you would report to the house between</p> <p>13 eight and nine o'clock, right?</p> <p>14 A Yes, sir.</p> <p>15 Q So in order for you not to arrive at the</p> <p>16 house, she had to have called you before eight or</p> <p>17 nine o'clock, right?</p> <p>18 A Yes.</p> <p>19 Q Okay. So approximately what time does</p> <p>20 Ms. Maxwell call you to tell you you can report to the</p> <p>21 house later on that day?</p> <p>22 A I cannot remember really the time.</p> <p>23 Q Okay. What time did you actually report to</p> <p>24 the house?</p> <p>25 A After lunch, about -- maybe after lunch.</p>                                                                                             | <p>1 A He said pictures.</p> <p>2 Q Did he tell you which pictures?</p> <p>3 A No, sir.</p> <p>4 Q Aside from pictures, what else did the police</p> <p>5 take, as Janusz told you?</p> <p>6 A He did not elaborate.</p> <p>7 Q All right. Prior to the police going to the</p> <p>8 house and taking pictures, do you remember seeing</p> <p>9 pictures around Mr. Epstein's house?</p> <p>10 A Yes.</p> <p>11 Q Do you remember seeing pictures of naked or</p> <p>12 nude females around Mr. Epstein's house?</p> <p>13 A Not around, in his closet.</p> <p>14 Q In Mr. Epstein's closet you would see --</p> <p>15 describe what you would see related to females in</p> <p>16 pictures.</p> <p>17 A Some have topless.</p> <p>18 Q Is this a big closet?</p> <p>19 A No. Not really big, it's just this big, not</p> <p>20 so big.</p> <p>21 Q Okay. Were these pictures that could be seen</p> <p>22 by -- strike that.</p> <p>23 Do you know of any other pictures of females</p> <p>24 that were confiscated by the police that did not come</p> <p>25 from Mr. Epstein's closet?</p> |



**COMPOSITE  
EXHIBIT 6  
(FILE UNDER SEAL)**

Date: 7/19/06  
Time: 15:01:37

PALM BEACH POLICE DEPARTMENT  
Incident Report

Page: 63  
Program: CMS301L

Case No. . . . : 1-05-000368

(Continued)

\*\*\*\*\* N A R R A T I V E # 27 \*\*\*\*\*  
IA Reported By: KRAUEL, CURTIS D. 12/21/05  
Entered By.: ALTOMARO, NICKIE A. 12/21/05

On Thursday, October 20, 2005 at approximately 0936 hours, I assisted in the execution of a search warrant located at 358 El Brillo Way, Palm Beach, Florida, residence of Jeffrey Epstein. I was instructed by Case Agent Det. Joseph Recarey, to secure all computer and media related material from the residence.

Upon my arrival I was directed by Det. Recarey to a room designated as the Kitchen Staff Office. I observed a, Silver in color, CPU with the left side cover removed, exposing the CPU's hardware sitting on floor next to a glass type desk. The CPU had no discernable identifiers or features indicating a make or model. This CPU was powered off with the power cord not plugged in. The keyboard and mouse were atop the CPU. It should be noted that the CPU was not connected to a monitor, printer, or other media device. On the back Panel of the CPU, I observed an A/V card with RCA jacks attached. This type of hardware would allow audio and video to be downloaded onto the CPU's hard disk.

The ends of the RCA jacks were unattached at the time of the search and no external camera was located within this room.

The CPU was located on the right side of a desk that held a flat panel LCD screen. The desk also held another keyboard and mouse, indicative of a second computer; however, no other computer was found. It appeared as though a second computer had been recently removed as the cables ends from the monitor, keyboard and mouse were in the same area. A further search of the room revealed no media storage devices, i.e. CD s, Floppy Disks, Zip Disks, etc. This type of media is commonly stored in an area where computers are placed, yet no media was found.

After completing a search of this room, I secured the CPU and turned all items over to the Evidence Custodian for future forensic analysis via a property receipt.

I was then directed by Det. Recarey to a room designated as the Garden Room, where I observed a wooden desk facing west. The desk held a flat screen LCD monitor, keyboard, mouse, media card reader and printer; however, no CPU was located. All of the cables were removed from an area where a computer had once been. A search of the desk area revealed no signs of any media devices.

Det. Recarey directed me to a third location designated as the Cabana room, which is detached from the residence and located just south of the pool. In the South East corner of the room, I observed an office type setting, with an L-shaped desk holding a flat screen LCD monitor, keyboard, mouse and printer; however, no CPU was located. All of the cables were removed from an area where a computer had once been. A search of the desk area revealed no signs of any media devices.

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 RE CAREY, 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.

1 JOSEPH RE CAREY - CONFIDENTIAL

2 THE WITNESS: Correct.

3 BY MR. EDWARDS:

4 Q. And let me go back to the beginning six  
5 pages of that exhibit, No. 4.

6 MR. PAGLIUCA: Why don't we just make a  
7 copy of it now if we're going to ask questions  
8 about it? I'm not trying to --

9 MR. EDWARDS: Yes, I know. It's just the  
10 first six pages.

11 (A discussion was held off the record,  
12 after which the following proceedings were  
13 held:)

14 THE VIDEOGRAPHER: On the record at 10:32.

15 BY MR. EDWARDS:

16 Q. And what were some of the items that were  
17 found in -- well, are the documents that you're  
18 holding, 1 through 6, an accurate reflection of the  
19 items that were found in Jeffrey Epstein's home  
20 during the search warrant execution?

21 MR. PAGLIUCA: Object to form and  
22 foundation.

23 THE WITNESS: Yes.

24 BY MR. EDWARDS:

25 Q. And I believe that you described that some



1 JOSEPH RECAREY - CONFIDENTIAL  
2 of the -- that the house appeared to be -- I don't  
3 remember the word you used -- sanitized, for lack of  
4 a better word?

5 MR. PAGLIUCA: Object to form and  
6 foundation.

7 BY MR. EDWARDS:

8 Q. How did you know that?

9 A. The computers had been removed from the  
10 home.

11 Q. How did you know the computers were  
12 removed?

13 A. Based on -- based on the dangling wires  
14 left behind, the monitors left, but the actual CPU  
15 of it was missing.

16 When you went into the bedroom of Jeffrey  
17 Epstein, everything was removed from the -- the  
18 shelves, from the armoire.

19 Q. Did you find nude photographs of girls?

20 A. Yes.

21 Q. All right.

22 And what did you do with that evidence?

23 A. That was collected and placed into our  
24 crime scene unit.

25 Q. And where is that evidence today?

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 MOTION *IN LIMINE* TO EXCLUDE *IN TOTO* CERTAIN  
DEPOSITIONS DESIGNATED BY PLAINTIFF FOR USE AT TRIAL**

Laura A. Menninger  
Jeffrey S. Pagliuca  
HADDON, MORGAN, AND FOREMAN, P.C.  
150 East 10<sup>th</sup> Avenue  
Denver, CO 80203  
303.831.7364

## TABLE OF CONTENTS

|                                                                                                                                                                                           |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| INTRODUCTION .....                                                                                                                                                                        | 1  |
| I. PLAINTIFF CANNOT SATISFY THE LEGAL REQUIREMENTS FOR USE OF CERTAIN DEPOSITIONS AT TRIAL .....                                                                                          | 1  |
| A. Jeffrey Epstein and Rinaldo Rizzo Are Not Unavailable .....                                                                                                                            | 2  |
| B. As a Retained Expert, Phillip Esplin Cannot Be Deemed Unavailable .....                                                                                                                | 3  |
| II. TESTIMONY IN WHICH WITNESS REFUSED TO RESPOND TO QUESTIONS POSED IS IRRELEVANT, MORE PREJUDICIAL THAN PROBITIVE, AND MUST BE EXCLUDED FROM TRIAL .....                                | 5  |
| A. Jeffrey Epstein .....                                                                                                                                                                  | 5  |
| B. ██████████ .....                                                                                                                                                                       | 12 |
| C. Phillip Esplin.....                                                                                                                                                                    | 14 |
| III. TESTIMONY AND STATEMENTS MADE IN OTHER MATTERS TO WHICH MS. MAXWELL WAS NOT A PARTY, WAS NOT PRESENT, HAD NO NOTICE, AND DID NOT PARTICIPATE CANNOT BE DESIGNATED IN THIS CASE ..... | 14 |
| CONCLUSION.....                                                                                                                                                                           | 18 |
| CERTIFICATE OF SERVICE .....                                                                                                                                                              | 19 |

Defendant Ghislaine Maxwell (“Ms. Maxwell”) hereby moves to in *limine* to exclude *in toto* certain depositions designated by Plaintiff for use at trial, specifically those of Alfredo Rodriguez, Jeffrey Epstein, [REDACTED] and Dr. Phillip Esplin. She simultaneously files her specific objections to portions of these and other depositions designated by Plaintiff. She further states as follows:

### INTRODUCTION

Plaintiff has filed deposition designations for 14 witnesses for use in her case in chief at trial. With respect to four of the witness, the use of their deposition testimony must be precluded entirely pursuant to Fed. R. Civ. P. 32 and Fed. R. Evid. 804(b)(1) because either (a) the witnesses are not unavailable and/or (b) the requirements for use of deposition in lieu of live testimony cannot be met. As separately filed in her specific objections, with respect to the remaining ten (10) witnesses, the Federal Rules of Evidence require portions or all of the designated testimony to be excluded.

#### **I. PLAINTIFF CANNOT SATISFY THE LEGAL REQUIREMENTS FOR USE OF CERTAIN DEPOSITIONS AT TRIAL**

The use of deposition at trial is governed by Fed. R. Civ. P. 32. Under that rule, Plaintiff must establish the following to use all or part of any deposition at trial:

(a) Using Depositions.

(1) *In General*. At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Federal Rules of Evidence if the deponent were present and testifying; *and*

(C) the use is allowed by Rule 32(a)(2) through (8).

To affirmatively offer evidence in her case in chief through deposition testimony under Rule 32(a)(4), the plaintiff must establish that the witness is unavailable. Specifically, the rule provides:

(4) *Unavailable Witness*. A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

- (A) that the witness is dead;
- (B) that the witness is more than 100 miles from the place of hearing or trial or is outside the United States, unless it appears that the witness's absence was procured by the party offering the deposition;
- (C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;
- (D) that the party offering the deposition could not procure the witness's attendance by subpoena; or
- (E) on motion and notice, that exceptional circumstances make it desirable—in the interest of justice and with due regard to the importance of live testimony in open court—to permit the deposition to be used.

Fed. R. Evid. 804(b)(1) echoes this requirement, providing an exception to the hearsay rule for use of deposition testimony only when a witness is unavailable.

**A. Jeffrey Epstein and Rinaldo Rizzo Are Not Unavailable**

Plaintiff has made deposition designation based on the alleged “understanding that [witnesses] are not able to appear live to provide trial testimony.” With respect to Jeffrey Epstein and Rinaldo Rizzo, she offered no basis for her claim that these two witnesses are not able to appear live to provide testimony. Both witnesses reside within 100 miles of the courthouse at which the trial is to be held, and she has neither articulated nor argued any other basis for a finding of “unavailability.” Indeed, no such argument could be maintained.<sup>1</sup> “[D]eposition testimony is only a substitute, not to be resorted to if the witness can appear in person.” *Banks v. Yokemick*, 144 F. Supp. 2d 272, 288 (S.D.N.Y. 2001). Plaintiff's own investigator has stated in his affidavit regarding attempted service of the deposition subpoena on Mr. Epstein that he has three known addresses in New York, including his permanent residence, all of which are within 100 miles of the courthouse. See ECF No. 161, Ex. 4. The fact that Mr.

---

<sup>1</sup> The remaining fact witnesses for whom Plaintiff has designated deposition testimony reside outside the 100-mile radius, and therefore may be unavailable under 32(a)(4). Defendant reserves all rights to object to use of any deposition testimony should the availability of such witness change.

Epstein will invoke the Fifth Amendment, if permitted by this Court, does not constitute exceptional circumstances that would permit use of his deposition at trial. *Id.*

Likewise, Mr. Rizzo, who lives in North Salem, New York, was served with a deposition subpoena in New York, and his deposition was conducted in New York, all within 100 miles of the courthouse. *See* Menninger Decl. Ex. A 2:2-4:18 (Rizzo Dep.) There is no basis to claim that either of these witnesses cannot be procured for trial through subpoena, nor is there any indication that Plaintiff has unsuccessfully attempted to issue such subpoenas.

Having failed to establish the essential element of unavailability, Mr. Epstein and Mr. Rizzo's depositions cannot be used affirmatively as evidence at trial and all such testimony is hearsay – an out of court statement offered for the truth of the matter – to which no exception or exclusion applies under Federal Rules of Evidence 804(a) and (b)(1).

**B. As a Retained Expert, Phillip Esplin Cannot Be Deemed Unavailable**

Phillip Esplin is a rebuttal expert, retained by the Defendant in rebuttal of the improper credibility opinions offered by Plaintiff's experts Dr. Gilbert Kliman and Professor Terry Coonan, both of which are subject to pending motions *in limine*. Plaintiff has attempted to designate portions of Dr. Esplin's deposition for use in her case in chief. All of the proposed testimony concerns matters which were outside of the scope of Dr. Esplin's opinion, as discussed in more detail below. As a preliminary matter, however, the attempt to introduce the deposition testimony of Dr. Esplin is improper under Second Circuit law because, as an expert, he is not deemed unavailable simply because he resides outside of the 100-mile radius of the courthouse. Rather, in the Second Circuit, to use the deposition or other sworn testimony of an expert based on alleged unavailability of that expert, the Plaintiff must prove that 1) she attempted to secure the voluntary attendance of the witness, and 2) that no similar expert is available.

The Second Circuit first addressed this issue in *Carter-Wallace, Inc. v. Otte*, 474 F.2d 529, 536 (2d Cir. 1972). In that case, Judge Friendly observed that “there is something unusual about the use of the prior testimony of an expert witness that calls for further scrutiny of his unavailability.” 474 F.2d at 536 (citations omitted). As a result, this Circuit imposed two additional requirements on parties seeking to offer prior expert testimony at trial. First, the proponent of the prior expert testimony must “attempt to secure the voluntary [trial] attendance of a witness who lives beyond the subpoena power of the court.” *Id.* at 536. The reason for this additional requirement is that “unlike the typical witness whose involvement with the case may depend on the fortuity of his observing a particular event and whose presence at trial is often involuntary, a party ordinarily has the opportunity to choose the expert witness whose testimony he desires and invariably arranges for his presence privately, by mutual agreement, and for a fee.” *Id.*

Second, “before former testimony of an expert witness can be used, there should be some showing, not only that the witness is unavailable, but that no other expert of similar qualifications is available or that the unavailable expert has unique testimony to contribute.” *Id.* at 536-37. The reason for this additional requirement is that, unlike an ordinary fact witness, “the expert witness generally has no knowledge of the facts of the case. . . . Thus, even if one particular expert is unavailable. . . there will usually be other experts available to give similar testimony orally.” *Id.* at 536. In sum, under *Carter-Wallace*, prior expert testimony is only admissible in the place of live expert testimony if the proponent of the testimony tries to secure the expert’s voluntary attendance and demonstrates that no similar expert is available. These judicially-created requirements have been applied in addition to the requirements of Fed. R. Evid. 804(b)(1) and Fed. R. Civ. P. 32. Plaintiff has failed to demonstrate that either of these

requirements have been met, mandating that the designated portions of Dr. Esplin's testimony should be ruled inadmissible at trial. *Id.*; see also *Aubrey Rogers Agency, Inc. v. AIG Life Ins. Co.*, 2000 WL 135129 (D. Del. 2000) (finding expert deposition testimony inadmissible where there was nothing in the record to indicate that the proponent had made any effort to secure the expert's attendance at trial or had even contacted the expert to "offer him his usual expert witness fee, and request his attendance at trial").

**II. TESTIMONY IN WHICH WITNESS REFUSED TO RESPOND TO QUESTIONS POSED IS IRRELEVANT, MORE PREJUDICIAL THAN PROBITIVE, AND MUST BE EXCLUDED FROM TRIAL**

Plaintiff designates the deposition testimony of three witnesses who refused to or could not respond to the questions posed to them. The first, Mr. Epstein, invoked his Fifth Amendment right against self-incrimination. The second, [REDACTED] was reluctant to be deposed and failed to answer questions based on lack of memory, repeatedly stating that she was unable to respond to the questions posed. The third, Dr. Phillip Esplin, explained repeatedly that he could not respond to the questions posed because they were outside the scope of his opinion and there was insufficient information in the record to permit response. All of this testimony is irrelevant, more prejudicial than probative and must be excluded.

**A. Jeffrey Epstein**

As the Court is aware, Jeffrey Epstein was compelled to sit for a deposition during which he invoked his Fifth Amendment rights as to each and every question posed to him by counsel for both Plaintiff and the Defendant. Both Plaintiff and Defendant have motions pending to require Mr. Epstein to respond fully to questions. If these motions are granted, the current deposition in which no questions were answered is irrelevant. Only actual questions that eventually are answered should be presented to the jury, subject to other rules of admissibility, including whether Plaintiff can establish that Mr. Epstein is unavailable to testify live at trial.



Because of his invocation of his Fifth Amendment right to remain silent, there actually is no deposition *testimony* to designate. Each designation reflects a leading question by Plaintiff's counsel (which is improper on direct examination, FRE 611(c)), followed by Mr. Epstein's one word response – "Fifth." Of course, Plaintiff's counsel's questions are not testimony. Mr. Epstein's responses have no "tendency to make a fact more or less probable than it would be without the evidence"; the answer to the questions is a non-answer, and the answer could be yes, no or something entirely different.

Moreover, with respect to many of the unanswered questions, they do not relate to any "fact [] of consequence in determining the action." Fed. R. Evid 401. By way of one limited example, Plaintiff designated the following leading question and non-answer: "Q. In June 2008, in open court, you pled guilty to two Florida State felonies, correct? A. Fifth." The investigation and ultimate plea deal reached by Mr. Epstein bears absolutely no relevance to this case. As the investigating detective, Joseph Recarey testified, Ms. Maxwell was not the subject of the investigation in 2005 and 2006, was not identified in the probable cause affidavit, and was not a subject of the grand jury proceedings against Mr. Epstein. Menninger Decl. Ex. B, 203:4-25; 210:24-212:6. Moreover, Plaintiff voluntarily departed this country three years prior to the investigation, was not identified as a witness in the investigation nor was she interviewed by the investigators. *Id.* 259:17-25. Simply put, the investigation of Mr. Epstein, which resulted in his indictment and plea deal, have nothing to do with either the Plaintiff or the Defendant in this action, and have no bearing on any fact that is of consequence in this case. This one limited example demonstrates the completely irrelevant inquiry put to Mr. Epstein. As such, the designated testimony fails the relevance standards of Fed. R. Evid. 401, is not admissible under Fed. R. Evid. 402, and certainly is more prejudicial than probative under Fed. R. Evid. 403.

Likewise, the designated invocation testimony of Mr. Epstein violates the requirements of Fed. R. Evid. 403, as any probative value of the testimony is outweighed by unfair prejudice, confusion of the issues, will tend to mislead the jury, cause undue delay, waste time, and present cumulative evidence. To permit this testimony, which in fact reflects only Plaintiff's attorney presenting prejudicial and unproven statements in the form of unanswered questions, serves only one purpose which is to confuse the jury by claiming that the failure to answer the questions must mean the answer is harmful to both Mr. Epstein *and* to Ms. Maxwell. In truth, and as Ms. Maxwell has stated in her pending motion to compel, Mr. Epstein's truthful answers to the questions posed by both parties would in fact vindicate Ms. Maxwell, proving that Ms. Maxwell's press statement were substantially true. Even allowing the reading of the designated testimony will, without question, confuse the jury by leading them to believe that there is some evidentiary value to the questions, causing significant and incurable prejudice to Ms. Maxwell.

It is apparent that Plaintiff intends to request that the Court instruct the jury that it may draw an adverse inference against Ms. Maxwell based on Jeffrey Epstein, a non-party witness's, invocation of the Fifth Amendment. Such an adverse inference is impermissible in this case.

Under Fed. R. Evid. 501 and this Court's prior rulings, New York State law governs the privilege law in this case. *See* ECF No. 135. Under New York law, the general rule is that a non-party's invocation of the Fifth Amendment privilege cannot be used as to create an adverse inference against a party. *Access Capital, Inc. v. DeCicco*, 302 A.D.2d 48, 52 (2002) ("the privilege being personal, the consequences are limited to the witness that invokes it. Thus, where the privilege is asserted by a nonparty witness, no adverse inference may be drawn") (citing *State v. Markowitz*, 273 A.D.2d 637, 646 (2000)).

In New York, there are two exceptions to this general rule: 1) where the non-party witness is an alter ego of a party; and 2) when a party controls the non-party material witness and could force them to testify. *Andrew Carothers, M.D., P.C. v. Ins. Companies Represented by Bruno, Gerbino & Soriano, LLP*, 26 Misc. 3d 448, 461-62, 888 N.Y.S.2d 372 (Civ. Ct. 2009):

While it is true that an adverse inference may not generally be drawn against a party when a nonparty asserts the privilege (*see Access Capital v DeCicco*, 302 AD2d 48, 52 [1st Dept 2002]; *State of New York v Markowitz*, 273 AD2d 637, 646 [3d Dept 2000], *lv denied* 95 NY2d 770 [2000]), the courts in this state have recognized several exceptions to this rule . . . . One of these exceptions deals with the situation where a corporate employee, who is the alter ego of his or her corporate employer, refuses to testify on Fifth Amendment grounds.

...

The second of these exceptions deals with the situation when the nonparty who asserts his or her Fifth Amendment privilege and refuses to testify is a material witness in a particular party's control. In *Califano v City of New York* (212 AD2d 146 [1st Dept 1995]), the Court held that “[t]he inference to be charged in a civil case by a [nonparty] witness's invocation of the privilege against self-incrimination is ‘akin to that arising when a party fails or refuses to produce a material witness who is within his control’”

*Id.* at 461-462.

Neither of these two exceptions is applicable in this instance. Ms. Maxwell is not a corporation and she has no corporate employees. Mr. Epstein is not, and has never been, an employee or even an agent of Ms. Maxwell. In fact, it was Mr. Epstein who employed Ms. Maxwell in the late 90’s and early 2000’s; it was he who had employment control over her, not the opposite. In this circumstance, the purpose of the exception is not served because the non-testifying employer does not have the ability to bind his subservient former employee, nor is there any basis to believe that an employer would act to protect his employee because he has nothing (such as his job) to lose.

The second exception is equally inapplicable. Ms. Maxwell has no control of Mr. Epstein and no ability to command his testimony.<sup>2</sup> This fact is made obvious by virtue of Mr. Epstein's refusal to respond to the questions posed at the deposition by Ms. Maxwell's counsel, requiring her to file a motion to compel his testimony. ECF No. 449. Thus, under controlling New York law, use of Mr. Epstein's testimony and the concomitant adverse inference based on that testimony is prohibited.

Federal law requires the same result. The Second Circuit first addressed the question of whether an adverse inference against a party to a civil action is permitted based on a non-party's invocation of the Fifth Amendment in *LiButti v. United States*, 107 F.3d 110, 124 (2d Cir. 1997). In that case, during a bench trial the question arose whether the trial court should have drawn an adverse inference against the Plaintiff based on her father's invocation of the Fifth Amendment Privilege. The Court held that the "issue of the admissibility of a non-party's invocation of the Fifth Amendment privilege against self-incrimination in the course of civil litigation and the concomitant drawing of adverse inferences appropriately center on the circumstances of the case." *Id.* at 123. The Court then set forth a list of four non-exclusive factors that should guide a court in determination of the relevance of any testimony: 1) the nature of the relevant relationships; 2) the degree of control of the party over the non-party witness; 3) the compatibility of the interests of the party and non-party witness in the outcome of the litigation; 4) the role of the non-party witness in the litigation. *Id.* at 123-124. The Court made clear that the key consideration is trustworthiness: "[w]hether these or other circumstances unique to a

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<sup>2</sup> To the extent Plaintiff claims control based on the existence of a joint defense agreement, courts have specifically ruled that such an agreement alone does not establish privity or control for purposes of the exceptions to the prohibition on giving an adverse inference instruction based on invocation by a non-party. *Omni Food Sales v. Boan*, No. 06 CIV. 119 (PAC), 2007 WL 2435163, at \*4 (S.D.N.Y. Aug. 24, 2007) (discussing collateral estoppel stating joint defense agreement alone "however, it would prove only a litigation alliance; it alone would not create privity.").

particular case are considered by the trial court, the overarching concern is fundamentally whether the adverse inference is trustworthy under all of the circumstances and will advance the search for the truth.” *Id.* at 124.

As under New York law, the nature of the relationship (Mr. Epstein employing Ms. Maxwell rather than vice versa) and the lack of her control over him weigh against the trustworthiness of an adverse inference. Likewise, Mr. Epstein has no stake in the outcome of this litigation, financial or otherwise. Nor has he participated in this litigation in anyway. Rather, he completely refused to participate, moving to quash his deposition, pleading the fifth and refusing to produce documents or provide testimony.

While the *LiButti* Court was considering an adverse inference during a bench trial, it was cognizant that, after conducting the relevance evaluation, courts would also need to assess the issue of undue prejudice under Fed. R. Evid. 403, an issue not presented there because of the nature of a bench trial. *Id.* at 124. As discussed above, there is insurmountable unfair prejudice caused by presenting Plaintiff’s counsel’s “testimony” (in the form of questions) and Mr. Epstein’s invocation, even if no adverse evidence instruction is given. Plaintiff’s entire point is to confuse and mislead the jury to believe that the answers to each of the self-serving questions would be yes, even though there is no proof on the question. This is in essence simply allowing Plaintiff’s counsel to testify to their own theories, not actual facts.

If anything, an adverse inference against Plaintiff and in favor of Ms. Maxwell based on Mr. Epstein’s invocation of the Fifth Amendment is the only proper adverse inference. Plaintiff previously sued Mr. Epstein for the conduct about which he refused to answer in his deposition. As a result of that lawsuit Plaintiff received a \$500,000 settlement payment from Mr. Epstein, a matter about which Mr. Epstein refused to testify. *See Menninger Decl. Ex. C 283:5-284:17*

(Epstein Depo.). The amount of that payment, the reasons for the settlement, the nature of the claims, and the release of claims for emotional distress and other damages that mirror the alleged damages sought by Plaintiff in this matter are relevant to apportionment of any cause of Plaintiff's claimed injuries. *See Bikowicz v. Sterling Drug, Inc.*, 161 A.D.2d 982, 985, 557 N.Y.S.2d 551 (1990) (an adverse inference in favor of the defendant should have been given based on a settling joint-tortfeasors invocation of the Fifth Amendment because it was relevant to apportionment of fault and damages). If any adverse inference instruction is proper it should be an instruction that the jury should assume that Mr. Epstein's refusal to answer questions concerning his conduct toward Plaintiff should be constituted as an admission that Mr. Epstein engaged in that conduct on his own, and without the participation or knowledge of Ms. Maxwell. Plaintiff previously sued Mr. Epstein for these actions. In that action, Plaintiff claimed damages for:

Past and future physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunity, loss of self-esteem, loss of dignity, invasion of privacy, separation from her family; medical and psychological expenses; loss of income, loss of capacity to earn income, and loss of the capacity to enjoy life.

The jury should assume that Plaintiff valued her damages at \$500,000 for these alleged injuries, and has received payment for her injuries from Mr. Epstein.

The designated testimony of Mr. Epstein is also fatally flawed in that it lacks any evidentiary foundation, which is impermissible when testimony of invocation is presented to a jury. Courts addressing the issue of permitting an adverse inference against a party based on the party's own invocation of their Fifth Amendment rights still permit that inference only if "independent evidence exists of the fact to which the party refuses to answer." *Doe ex rel. Rudy-Glanzer v. Glanzer*, 232 F.3d 1258, 1264 (9th Cir. 2000); *see also LaSalle Bank Lake View v.*

*Seguban*, 54 F.3d 387, 391 (7th Cir.1995); *Peiffer v. Lebanon Sch. Dist.*, 848 F.2d 44, 46 (3d Cir.1988). Thus, silence can only result in any inference when it “is countered by *independent evidence* of the fact being questioned, but that same inference cannot be drawn when, for example, silence is the answer to an allegation contained in a complaint.” *Doe ex rel. Rudy-Glanzer*, 232 F.3d at 1264 (citing *Nat'l Acceptance Co. v. Bathalter*, 705 F.2d 924, 930 (7th Cir.1983). “In such instances, when there is no corroborating evidence to support the fact under inquiry, the proponent of the fact must come forward with evidence to support the allegation, otherwise no negative inference will be permitted.” *Id.* (citing *LaSalle Bank*, 54 F.3d at 391); *see also OS Recovery, Inc. v. One Groupe Int'l, Inc.*, No. 02 CIV. 8993LAK, 2005 WL 850830, at \*1 (S.D.N.Y. Apr. 13, 2005) (“inference from invocation of the privilege may be appropriate only where there is independent evidence corroborating the proposition sought to be inferred”). Here, the vast majority of questions posed to Mr. Epstein lack any foundation or corroboration other than being allegations and assertions of the Plaintiff in this matter. It is Plaintiff’s burden to come forward with independent corroborating evidence for each question posed to Mr. Epstein before the court can even consider allowing presentation of the questions and invocation to a jury. Plaintiff’s complete failure to provide such evidence for the designated testimony requires that it be excluded from trial.

**B.** [REDACTED]

[REDACTED] was a witness in the investigation and indictment of Jeffrey Epstein in 2006. She very clearly testified in her deposition in this matter that she has little or no memory of most or all of the events surrounding the time she knew Mr. Epstein, and specifically testified that she is in therapy for the purpose of repressing any memories concerning Mr. Epstein. *See Menninger Decl. Ex. D 8:8-9:7; 57:16-58:25*. As such, the vast majority of her testimony is that she has no present recollection of events so that she cannot respond to the questions posed to her.

Plaintiff's counsel provided ██████ with a copy of a statement she gave to the police in October 2005 concerning Mr. Epstein. ██████ refused to look at the statement and did not authenticate it in any way. The statement itself is by definition hearsay – an out of court statement made by ██████ that Plaintiff would like to offer for the truth of the matter. The only possible permissible use of the statement was for purposes of refreshing recollection under Fed. R. Evid. 612. However, ██████ refused to look through the statement and had no independent recollection of events, as explained by her attorney. *See* Menninger Decl. Ex. D 16:5-18-21:23. Plaintiff's counsel made clear that he did not intend to attempt to use the police statement to refresh ██████ recollection, and ██████ counsel made clear that the statement would not refresh her recollection. *Id.* As such, the police report is simply an out of court statement, at best consistent with the few items of testimony that ██████ could recall. Under Fed. R. Evid. 612 and 801(d)(1), no portion of the statement, including those portions read into the deposition record, are admissible into evidence.

With respect to ██████ response of being unable to recall events or testify, none of the questions or answers is probative of any fact at issue in this matter, requiring exclusion under Fed. R. Evid. 401, 402 and 602 based on lack of personal knowledge. To permit the designation of leading questions with the answer that ██████ could not recall violates the principles of Fed. R. Evid. 403 and 611 as well, in that the suggestive question with a non-answer confuses and misleads the jury into a belief that the attorney's question should be taken as testimonial evidence. All testimony of ██████ designated testimony that 1) refers to or references the police report or contents of that report; 2) that poses a leading question; or 3) that results in a response that the witness does not recall must be excluded. Likewise, the police report itself, Exhibit 1 in the deposition, is inadmissible under Fed. R. Evid. 801 and 612.



**C. Phillip Esplin**

As previously explained, Dr. Esplin is a retained rebuttal expert, responding to the improper credibility opinions of Dr. Kliman and Professor Coonan. His opinions are quite limited in scope, and merely point to the deficiencies in information, studies and the evaluations of Plaintiff's two experts. Plaintiff has improperly designated testimony that relates to questions, matters and fact outside the scope of Mr. Esplin's opinion, or about which he had no factual predicate to provide testimony. For instance, he was asked questions regarding the definitions of pedophilia and if it could be cured, a matter nowhere addressed in his rebuttal opinion. If Mr. Esplin is proffered as a witness at all, Plaintiff may only cross-examine him on matters within the scope of his opinion and his direct examination. Fed. R. Evid. 611(b); *Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc.*, 2000 WL 356412, at \*2 (S.D.N.Y. Apr.2, 2000) (holding that "direct testimony by any expert witness at trial shall be limited to the contents of the Expert Report"). The designated deposition testimony, all outside the scope of Dr. Esplin's expert opinion in this matter, must be precluded.

**III. TESTIMONY AND STATEMENTS MADE IN OTHER MATTERS TO WHICH MS. MAXWELL WAS NOT A PARTY, WAS NOT PRESENT, HAD NO NOTICE, AND DID NOT PARTICIPATE CANNOT BE DESIGNATED IN THIS CASE**

Plaintiff has attempted to designate the testimony of Alfredo Rodriguez from a deposition conducted of him on July 29, 2009 in connection with a series of cases brought by various "Jane Does" (none this Plaintiff) against Jeffrey Epstein. Mr. Rodriguez is now deceased, and thus not deposed in conjunction with the present litigation. These designations are prohibited by the Federal Rules of Evidence and Procedure. Again, Fed. R. Civ. P. 32 and Fed. R. Evid. 804 are controlling.

Under Fed. R. Civ. P. 32, a prerequisite to use of a deposition at trial is "(A) the party was present or represented at the taking of the deposition or had reasonable notice of it; (B) it is

used to the extent it would be admissible under the Federal Rules of Evidence if the deponent were present and testifying; and (C) the use is allowed by Rule 32(a)(2) through (8)."

Neither condition A nor C exist in this case. Ms. Maxwell was not a party to any of the litigations in which Mr. Rodriguez was deposed; Ms. Maxwell was neither present or given notice of the deposition. Likewise, under Rule 32(a)(8), use of a deposition from a prior proceeding is only permitted if the prior proceeding was between the same parties (it was not) and dealing with the same subject matter (it was not).

Mr. Rodriguez's prior testimony also fails to meet the hearsay exception requirements of Fed. R. Evid. 804(b)(1). Under that rule, an unavailable witness's testimony may be used only if it is "testimony that (a) was given as a witness at a trial, hearing or lawful deposition, whether given during the current proceeding or a different one; and (b) is now offered against a party who had – or in a civil case, whose predecessor in interest had – an opportunity and similar motive to develop it by direct, cross-, or redirect examination." *Id.* Plaintiff here seeks to enter the deposition testimony of Mr. Rodriguez against Ms. Maxwell, a non-party to the prior civil cases. Ms. Maxwell has no predecessor in interest in those matters, let alone ones with an opportunity or motive to develop testimony relating to a defamation case that did not arise until over 6 years later. Mr. Rodriguez's testimony through a 2009 deposition is completely unrelated to this action, is pure hearsay and does not fall under any exceptions to the hearsay rules. Fed. R. Evid. 801, 802 & 804.

One key issue about which Mr. Rodriguez was not cross-examined was his own criminal conduct which occurred after the deposition testimony he gave in those matters. Subsequent to the deposition Plaintiff proffers, Mr. Rodriguez contacted the attorneys representing the Jane Does in those matters and attempted to sell them a 97-page document. One such attorney was

Mr. Bradley Edwards, counsel in this case. According to the Criminal Complaint filed against Mr. Rodriguez in 2009, Mr. Rodriguez approached one of the lawyers and offered to sell the lawyer evidence against Mr. Epstein. *United States v. Rodriguez*, United States District Court for the Southern District of Florida, Case No. 9:09-mj-08308-LRJ, EFC No. 3, ¶¶3-7. Mr. Rodriguez “explained that he had compiled lists of additional victims in the case and their contact information” *Id.* ¶6. A sting operation was set up by the FBI during which the 97 pages purportedly were provided to an undercover officer in exchange for \$50,000. *Id.* at ¶¶ 8-11. Mr. Rodriguez subsequently was prosecuted and imprisoned for this bribery and obstruction scheme. These actions and conviction, which did not occur until after the deposition Plaintiff seeks to proffer, are quintessential character impeachment evidence that no one has ever examined Mr. Rodriguez about. Given Mr. Rodriguez’s death in 2015, it is now impossible cross examine him on these issues. Submission of Mr. Rodriguez’s testimony without the ability to confront the witness or cross-examine on him on his credibility is improper under Fed. R. Civ. P. 32(a)(8), Fed. R. Evid. 403, 405, 609, 801, 802 & 804.

The format and content of the copy of deposition produced also makes its admission improper. While nine deposition exhibits were marked for identification, only one of the exhibits has been produced. Thus, it is impossible to determine the probative value, if any, of the questioning concerning deposition exhibits (including the identification of pictures) because they are unavailable. Similarly, throughout the deposition, the persons being discussed are referred to only by a first initial or first and last initial. From the content, it is impossible to determine who is being discussed or the age of any particular individual. Under 401, 402 and 403, any admission of this incomplete deposition would be improper.

Like ██████ Mr. Rodriguez was expansively questioned based on counsel's recitation of the alleged content of a recorded statement from Mr. Rodriguez to Detective Recarey and then he was asked questions regarding such statement. He was not shown the recorded statement, nor was he asked any question of his present memory prior to the reading of these statement which resulted in a need to have his recollection refreshed. Plaintiff is attempting to introduce as evidence the content of the prior consistent statement through counsel's questions, which is improper under Fed. R. Evid. Fed. R. Evid. 612 and 801(d)(1).

Further, the questions posed to Mr. Rodriguez that have been designated are almost exclusively leading questions of a non-party witness who Plaintiff intends to use as a direct witness in her case in chief. All of these questions violate Fed. R. Evid. 611(c), making these portions of the deposition inadmissible under 32(a)(1)(b).

The testimony of Mr. Rodriguez is also impermissible under 401, 401, 403 and 602 because Mr. Rodriguez has absolutely no personal knowledge of any matter at issue in this case. He testified that he worked for Mr. Epstein from September 2004 to March 2005, a full two years after Plaintiff in this matter had left the country. He stated that he had never heard of or met "V.R." (presumably Virginia Roberts) *Id.* Menninger Decl. Ex. E at 441:19-21. Based on his dates of employment, he has no personal knowledge of any events concerning Plaintiff, as pointed out to counsel in the deposition. *Id.* 277:15-278:5. Indeed, Mr. Rodriguez was very clear in testifying that he had absolutely no personal knowledge about *anything* that happened between Mr. Epstein and any of the women who came to give him massages and that his testimony is pure speculation. *Id.* 466:7-467:2. With no personal knowledge of the veracity of the allegations that were called untrue (or any other matter to which he testified) his testimony is completely irrelevant to this litigation.

**CONCLUSION**

For the foregoing reasons, Ms. Maxwell respectfully requests an Order of this Court excluding the deposition testimony of witnesses Jeffrey Epstein, ██████████, Dr. Phillip Esplin, and Rinaldo Rizzo from being introduced by Plaintiff at trial.

Dated: January 27, 2017

Respectfully submitted,

*/s/ Laura A. Menninger*

---

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*Attorneys for Ghislaine Maxwell*

**CERTIFICATE OF SERVICE**

I certify that on January 27, 2017, I electronically served this *DEFENDANT'S MOTION IN LIMINE TO EXCLUDE IN TOTO CERTAIN DEPOSITIONS DESIGNATED BY PLAINTIFF FOR USE AT TRIAL* via ECF on the following:

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\_\_\_\_\_  
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 Motion *In Limine* To Exclude *In Toto* Certain  
Depositions Designated By Plaintiff For Use At Trial**

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 Motion in Limine to Exclude In Toto Certain Depositions Designated by Plaintiff for Use at Trial.

2. Attached as Exhibit A (filed under seal) are true and correct copies of excerpts from the deposition of Ronald Rizzo on June 10, 2016, designated Confidential under the Protective Order.

3. Attached as Exhibit B (filed under seal) are true and correct copies of excerpts from the deposition of Detective Joseph Recarey on June 21, 2016, designated Confidential under the Protective Order.

4. Attached as Exhibit C (filed under seal) are true and correct copies of excerpts from the deposition of Jeffrey Epstein on September 9, 2016, designated Confidential under the Protective Order.

5. Attached as Exhibit D (filed under seal) are true and correct copies of excerpts from the deposition of [REDACTED] on June 20, 2016, designated Confidential under the Protective Order.

6. Attached as Exhibit E (filed under seal) are true and correct copies of excerpts from the continuous days of deposition of Alfredo Rodriguez on July 29 and August 7, 2009 designated Confidential under the Protective Order multiple and various cases.

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

Executed on January 27, 2017.

*s/ Laura A. Menninger*  
\_\_\_\_\_  
Laura A. Menninger



**CERTIFICATE OF SERVICE**

I certify that on January 27, 2017, I electronically served this *Declaration of Laura A. Menninger in Support of Defendant's Motion in Limine to Exclude In Toto Certain Depositions Designated by Plaintiff for Use at Trial* via ECF on the following:

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*/s/ Nicole Simmons*

---

Nicole Simmons

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

VIRGINIA L. GIUFFRE,  
Plaintiff,  
-against-  
GHISLAINE MAXWELL,  
Defendant.

---

250 N. Australian Avenue,  
Suite 1400  
West Palm Beach, Florida 33401  
Friday, September 9, 2016  
8:35 a.m. - 2:08 p.m.

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

VIDEOTAPED DEPOSITION OF JEFFREY EPSTEIN

Taken before Darline M. West,  
Registered Professional Reporter, Notary Public  
in and for the State of Florida At Large,  
pursuant to Notice of Taking Deposition filed  
by the Plaintiff in the above cause.

MAGNA LEGAL SERVICES  
1200 Avenue of the Americas  
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25 (Appearances continued on the next page)

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6

7 ALSO PRESENT:

8 RYAN KICK - Video Technician  
9 DARLINE MARIE WEST - Court Stenographer  
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I N D E X

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|-----------------------------------------|-------|
| WITNESS:                                | PAGE: |
| JEFFREY EDWARD EPSTEIN                  |       |
| DIRECT EXAMINATION<br>BY MR. CASSELL:   | 8     |
| CROSS-EXAMINATION<br>BY MR. PAGLIUCA:   | 275   |
| REDIRECT EXAMINATION<br>BY MR. CASSELL: | 324   |
| CERTIFICATE OF OATH                     | 375   |
| REPORTER'S CERTIFICATE                  | 376   |

- - -

E X H I B I T S

- - -

|                         | Description                                                           | Page |
|-------------------------|-----------------------------------------------------------------------|------|
| Plaintiff's Exhibit JE1 | Transcript of the deposition of Ms. Maxwell taken on April 22nd, 2016 | 54   |
| Plaintiff's Exhibit JE2 | Document with titles of books                                         | 90   |
| Plaintiff's Exhibit JE3 | Photograph depicting Prince Andrew, Maxwell, and Virginia             | 101  |
| Plaintiff's Exhibit JE4 | E-mail that Jeffrey Epstein sent to Maxwell on January 12th, 2015     | 173  |

|    |                                   |                                                                                                                                                                                         | Page 5 |
|----|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 1  | Plaintiff's Composite Exhibit JE5 | E-mail Jeffrey Epstein received from Ms. Maxwell on about July 18th, 2009                                                                                                               | 180    |
| 2  |                                   |                                                                                                                                                                                         |        |
| 3  | Plaintiff's Exhibit JE6           | E-mail string between Jeffrey Epstein and Ms. Maxwell on about March 25th, 2011                                                                                                         | 185    |
| 4  |                                   |                                                                                                                                                                                         |        |
| 5  | Plaintiff's Exhibit JE7           | Transcription of a string of e-mails between Jeffrey Epstein and Ms. Maxwell in about May of 2011                                                                                       | 189    |
| 6  |                                   |                                                                                                                                                                                         |        |
| 7  |                                   |                                                                                                                                                                                         |        |
| 8  | Plaintiff's Exhibit JE8           | E-mail that Jeffrey Epstein sent to Maxwell on January 15th, 2015                                                                                                                       | 191    |
| 9  |                                   |                                                                                                                                                                                         |        |
| 10 | Plaintiff's Exhibit JE9           | Document 361-46 on the public record in the case Jane Doe versus United States 908CD80736 in the Southern District of Florida, a document signed by Gerald Lefcourt and Alan Dershowitz | 210    |
| 11 |                                   |                                                                                                                                                                                         |        |
| 12 |                                   |                                                                                                                                                                                         |        |
| 13 |                                   |                                                                                                                                                                                         |        |
| 14 |                                   |                                                                                                                                                                                         |        |
| 15 |                                   |                                                                                                                                                                                         |        |
| 16 |                                   |                                                                                                                                                                                         |        |
| 17 | Plaintiff's Exhibit JE10          | Subpoena in this case for Jeffrey Epstein to appear at deposition                                                                                                                       | 225    |
| 18 |                                   |                                                                                                                                                                                         |        |
| 19 | Plaintiff's Exhibit JE11          | Transcript of Ms. Maxwell, taken on July 22, 2016                                                                                                                                       | 347    |
| 20 |                                   |                                                                                                                                                                                         |        |
| 21 |                                   |                                                                                                                                                                                         |        |
| 22 |                                   |                                                                                                                                                                                         |        |
| 23 |                                   |                                                                                                                                                                                         |        |
| 24 |                                   |                                                                                                                                                                                         |        |
| 25 |                                   |                                                                                                                                                                                         |        |

1           QUESTIONS MARKED BY THE REQUEST OF COUNSEL:

2

PAGE/LINES

3

Page 69, lines 24 through 25

4

Page 70, lines 2 thorough 16

(At the request of Mr. Pagliuca)

5

6

Page 280, lines 4 through 6

(At the request of Mr. Cassell)

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1 J. Epstein - Confidential

2 foundation.

3 THE WITNESS: Fifth.

4 BY MR. PAGLIUCA:

5 Q. In 2009, you entered into a settlement  
6 agreement with Ms. Giuffre, formerly known as  
7 Ms. Roberts, the Plaintiff in this case, correct?

8 MR. CASSELL: Object to form and  
9 foundation.

10 THE WITNESS: Fifth.

11 MR. GOLDBERGER: And attorney-client  
12 privilege. And to the extent that there's  
13 an agreement that exists that's  
14 confidential, we will not waive the  
15 confidentiality agreement.

16 MR. PAGLIUCA: And we can have -- you  
17 can have a standing objection to that on  
18 those grounds related to any question I ask  
19 about the settlement agreement with  
20 Ms. Giuffre, if that makes it easier.

21 MR. GOLDBERGER: Yeah. That makes it  
22 easier. Thank you.

23 BY MR. PAGLIUCA:

24 Q. I've not seen the settlement agreement.  
25 But let me ask you if you can tell me what the terms

1 J. Epstein - Confidential

2 of that agreement are, Mr. Epstein.

3 MR. CASSELL: Object to form and  
4 foundation.

5 THE WITNESS: Fifth.

6 BY MR. PAGLIUCA:

7 Q. Does the settlement agreement contain a  
8 release of any claims that Ms. Giuffre had or would  
9 have against you?

10 MR. CASSELL: Object to form and  
11 foundation.

12 THE WITNESS: Fifth.

13 BY MR. PAGLIUCA:

14 Q. Did the settlement agreement provide for a  
15 release by you of any claims against Giuffre?

16 MR. CASSELL: Form and foundation.

17 THE WITNESS: Fifth.

18 BY MR. PAGLIUCA:

19 Q. It's true, is it not, Mr. Epstein, you have  
20 no economic interest in this litigation?

21 MR. CASSELL: Form and foundation.

22 Calls for a legal conclusion.

23 THE WITNESS: Fifth.

24 BY MR. PAGLIUCA:

25 Q. And by "this litigation," I mean the

CERTIFICATE OF OATH

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STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, the undersigned authority, certify that  
JEFFREY EPSTEIN personally appeared before me and was  
duly sworn on September 9, 2016.

WITNESS my hand and official seal this 13th day  
of September 2016.

---

DARLINE MARIE WEST  
Notary Public

My Commission Expires:  
October 26, 2017  
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REPORTER'S CERTIFICATE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, DARLINE MARIE WEST, RPR, certify that I was authorized to and did stenographically report the foregoing deposition; and that the transcript is a true record thereof.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 13th day of September 2016.

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DARLINE MARIE WEST, RPR

C E R T I F I C A T E

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STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, JEFFREY EPSTEIN, hereby certify that I have read the foregoing transcript of my deposition and that the statements contained therein, together with any additions or corrections made on the attached Errata Sheet, are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
JEFFREY EPSTEIN

The foregoing certificate was subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the witness who has produced a \_\_\_\_\_ as identification and who did not take an additional oath.

\_\_\_\_\_  
Notary Public  
my commission expires:

**EXHIBIT D**

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 20, 2016

9:12 a.m.

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

Deposition of [REDACTED], pursuant to notice, taken by Plaintiff, at the offices of Podhurst Orseck, 25 West Flagler Street, Suite 800, Miami, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

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A P P E A R A N C E S:

BOIES SCHILLER & FLEXNER, LLP

Attorneys for Plaintiff

401 East Las Olas Boulevard  
Fort Lauderdale, Florida 33301

BY: BRADLEY EDWARDS, ESQ.

HADDON MORGAN & FOREMAN, P.C.

Attorneys for Defendant

150 East 10th Avenue  
Denver, Colorado 80203

BY: JEFFREY PAGLIUCA, ESQ.

PODHURST ORSECK, P.A.

Attorneys for Deponent

25 West Flagler Street  
Suite 800  
Miami, Florida 33130

BY: ROBERT JOSEFSBURG, ESQ.



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I N D E X

Examination by Mr. Edwards ..... 4  
Examination by Mr. Pagliuca ..... 57  
Further Examination by Mr. Edwards ..... 68

E X H I B I T S

Deposition Exhibit 1 ..... 6  
Police Interview

1 [REDACTED] - CONFIDENTIAL

2 spoke to police?

3 A. No, sir. I just want to make it very --  
4 pardon me. I didn't mean to interrupt.

5 MR. JOSEFSBURG: Let me explain something  
6 to both of you.

7 MR. EDWARDS: Sure.

8 MR. JOSEFSBURG: And for the record, [REDACTED]  
9 has, since these events of 12 years ago,  
10 received a lot of professional advice and gone  
11 through an awful lot based upon what happened  
12 12 years ago.

13 She has been advised and has followed the  
14 advice to forget, suppress, repress what  
15 happened, and that's how she goes on with her  
16 life.

17 So she doesn't remember a lot of things,  
18 and she doesn't want to remember them. So you  
19 might interpret in other matters as hostility  
20 from a witness. This is called  
21 self-preservation and mental health.

22 So both her attitude and her memory is  
23 based on that. We have someone who is badly  
24 injured and is very frail and wants to take  
25 care of herself. So you might think it's

1 [REDACTED] - CONFIDENTIAL

2 snippy, but it's just that she --

3 THE WITNESS: I truly don't know the  
4 answers to your questions if I say I don't.  
5 I'm trying to answer everything I know.

6 BY MR. EDWARDS:

7 Q. I can appreciate that.

8 When you spoke with police officers back  
9 in October of 2005, did you tell them the truth?

10 MR. PAGLIUCA: Object to form and  
11 foundation.

12 THE WITNESS: Of course, yes.

13 BY MR. EDWARDS:

14 Q. Okay. And do you remember someone  
15 named -- I think it's spelled phonetically in  
16 here -- Shana Jasmine or something along those  
17 lines, Shana Casman?

18 A. No, I do not recall.

19 Q. Do you remember a friend of yours being in  
20 the room when you spoke with the police?

21 A. No, I do not.

22 Q. Do you remember how many police officers  
23 you spoke with?

24 A. Over the course of all the years?

25 Q. That particular investigation.

1 [REDACTED] - CONFIDENTIAL

2 know the extent of their relationship. But she  
3 would schedule his appointments and handle clerical  
4 things for him as far as I can see.

5 Q. All right.

6 And when you first went to his house,  
7 where did -- where were you taken within the house?

8 MR. PAGLIUCA: Object to form and  
9 foundation.

10 THE WITNESS: Kitchen, up to the room, up  
11 to his master suite.

12 BY MR. EDWARDS:

13 Q. And which stairwell did you go up to his  
14 suite?

15 A. I do not remember.

16 Q. Was it the stairs off by the kitchen?

17 A. I do not recall.

18 Q. And when you went into his bedroom, were  
19 you under the belief that it was going to be you  
20 providing some sort of a massage?

21 A. It certainly didn't involve any sexual  
22 activity. That's what I was under the assumption.  
23 I don't recall exactly how I was propositioned to  
24 get there. I just was there, and all of a sudden  
25 something horrible happened to me.

1 [REDACTED] - CONFIDENTIAL

2 Q. Did you, at 16 years old or 17 years old,  
3 have any massage training or experience?

4 A. No.

5 Q. Did [REDACTED] have any massage  
6 experience?

7 A. I do not -- I can't speak to her  
8 experience. I do not know. She was not really a  
9 friend of mine. Barely an acquaintance. We maybe  
10 spoke three times in our entire going to school  
11 together and everything.

12 Q. Did you ever learn what her incentive was  
13 to bring you to Jeffrey Epstein's house?

14 A. Later I found out that they would get  
15 kickbacks for bringing people over.

16 Q. Do you remember seeing Jeffrey Epstein  
17 give her money that day?

18 A. I don't recall, no.

19 Q. If you said that in your statement, that  
20 you remember [REDACTED] getting money for bringing you  
21 here that day, would that be a true statement?

22 A. Yes, absolutely. Everything in there is  
23 the truth. I do not remember from years ago at this  
24 point.

25 MR. PAGLIUCA: Object to form and

1 [REDACTED] - CONFIDENTIAL

2 foundation.

3 BY MR. EDWARDS:

4 Q. If you want to --

5 A. I don't. It's okay.

6 Q. I understand.

7 A. Thank you.

8 Q. On page 6, you're telling the police that  
9 "[REDACTED] and me were waiting on the couch in the  
10 bathroom, and Jeffrey comes up and says -- he's  
11 like, Hey, I'm Jeffrey. He just introduced himself,  
12 and he hands [REDACTED] -- I remember this because I was  
13 pissed off that she got paid to bring me. He hands  
14 her a wad of hundred dollar bills and says, Thank  
15 you. And she says, I'll wait for you downstairs.  
16 And I was like, All right, I'll see you in a little  
17 bit."

18 Does that remind you of [REDACTED] getting  
19 paid to bring you?

20 MR. PAGLIUCA: Object to form and  
21 foundation.

22 THE WITNESS: It sounds like a familiar  
23 scenario. I do not recall at this time.

24 BY MR. EDWARDS:

25 Q. Okay.

1 [REDACTED] - CONFIDENTIAL

2 A. I don't remember.

3 Q. I appreciate that.

4 MR. JOSEFSBURG: I'll make it easier for  
5 both of you. Here's her testimony. As you  
6 notice, she's not looking at this. She doesn't  
7 want to look at it.

8 MR. EDWARDS: Yeah.

9 MR. JOSEFSBURG: She doesn't want to read  
10 it. But this is a statement that she gave to  
11 the police. She's saying that whatever she  
12 said in it is true. Does she remember it now?  
13 No, because she has done a good job of  
14 forgetting it. But if she said it, she said  
15 the truth. And when you read it to her now --

16 THE WITNESS: These are things I forgot.

17 MR. EDWARDS: It's not going to refresh  
18 her.

19 MR. JOSEFSBURG: She doesn't want to  
20 remember. So everything in it is true; she can  
21 tell you without looking at it. She doesn't  
22 want to look at it and she doesn't remember it.

23 Most of the important details that either  
24 of you are looking for, she'll say it's the  
25 truth but I don't remember that.

1 [REDACTED] - CONFIDENTIAL

2 MR. EDWARDS: Okay. I can appreciate  
3 that.

4 MR. PAGLIUCA: Counsel, I appreciate the  
5 record and I appreciate the clarification. So  
6 as you know, I mean, there may be an attempt to  
7 use any of this transcript as substantive  
8 evidence at trial. So while I accept your  
9 representation, I don't believe it lays any  
10 foundation for any of the statements to the  
11 police department. It doesn't lay any  
12 foundation as to the truth or non-truth as to  
13 the statement.

14 As I understand it, the witness has no  
15 present recollection of these events. Looking  
16 at this statement would not refresh her  
17 recollection, is what has been established on  
18 the record. The witness doesn't want to look  
19 at the statement. And the witness' testimony  
20 will be that she has no recollection of these  
21 events; is that correct?

22 MR. JOSEFSBURG: Everything you said is  
23 correct, with one other addition: That  
24 whatever she said to the police back then was  
25 the truth.



1 [REDACTED] - CONFIDENTIAL

2 MR. PAGLIUCA: That's where we may have a  
3 disagreement.

4 MR. JOSEFSBURG: Okay, but that's what she  
5 said.

6 MR. PAGLIUCA: I understand, but she did  
7 testify to that earlier. I accept that.

8 MR. JOSEFSBURG: Right. She doesn't  
9 remember and doesn't want to.

10 MR. PAGLIUCA: Understood.

11 MR. EDWARDS: I will proceed under those  
12 parameters. I got it.

13 MR. JOSEFSBURG: By the way, just so -- is  
14 what I just said correct?

15 THE WITNESS: Absolutely, yes. Thank you.

16 BY MR. EDWARDS:

17 Q. When you gave the statement to the police,  
18 was your motivation to tell the truth?

19 A. Yes.

20 MR. PAGLIUCA: Object to the form and  
21 foundation.

22 THE WITNESS: Yes, it was, absolutely.

23 BY MR. EDWARDS:

24 Q. Did you have any motivation in any part of  
25 it not to tell the truth?

1 [REDACTED] - CONFIDENTIAL

2 Epstein?

3 MR. PAGLIUCA: Object to form and  
4 foundation.

5 THE WITNESS: Yes.

6 MR. EDWARDS: All right. I don't have  
7 anything further for you. I apologize that we  
8 even had to go through this, all right?

9 THE WITNESS: Okay.

10 E X A M I N A T I O N

11 BY MR. PAGLIUCA:

12 Q. [REDACTED] [REDACTED] by name is Jeff Pagluica. I  
13 live in Denver, Colorado. And, like you, I don't  
14 want to be here today either, okay? I would rather  
15 be in Denver.

16 I just want to -- as I understand it, and  
17 I'm not trying to get into any of your treatment  
18 over the last, let's say, 10 years, because I don't  
19 know how long it's been, but as I understand what  
20 you and your lawyer have said here today, you have  
21 been involved in some number of years of therapy, in  
22 which the purpose -- part of the purpose of the  
23 therapy has been to forget all of these events that  
24 Mr. Edwards was asking you questions about; is that  
25 correct?

1 [REDACTED] - CONFIDENTIAL

2 A. How specific do I have to get about my  
3 doctors' appointments? I don't really --

4 Q. I'm not asking --

5 MR. JOSEFSBURG: Not at all.

6 BY MR. PAGLIUCA:

7 Q. I'm not asking those questions. I'm just  
8 asking, if, as your lawyer has said --

9 A. I understand the question.

10 Part of the therapy, yes, it did encompass  
11 copings skills, and this is the one I have chosen to  
12 use.

13 Q. Which is, I don't want to remember  
14 anything?

15 A. Yes. Repression. I don't want to  
16 reminisce.

17 Q. And you indicated as you sit here today,  
18 you don't recall specifics related to these events?

19 A. That's correct. I have worked very hard  
20 not to.

21 Q. Back in 2005, and, again, if you have no  
22 recollection of these things, that's fine, you were  
23 contacted by a Detective Recarey.

24 Do you recall that or not?

25 A. No, I don't.

1 [REDACTED] - CONFIDENTIAL  
2 CERTIFICATE OF OATH  
3 STATE OF FLORIDA )  
4 COUNTY OF MIAMI-DADE )  
5

I, the undersigned authority, certify that  
6 [REDACTED] personally appeared before me and  
was duly sworn.

7 WITNESS my hand and official seal this  
23rd day of June, 2016.

8  
9  
10 Kelli Ann Willis, RPR, CRR  
Notary Public, State of Florida  
Commission FF928291, Expires 2-16-20

11 + + + + + + + + + + + + + + + + + + + + + + +

12 CERTIFICATE

13 STATE OF FLORIDA )  
14 COUNTY OF MIAMI-DADE )

15 I, Kelli Ann Willis, Registered  
16 Professional Reporter and Certified Realtime  
Reporter do hereby certify that I was  
authorized to and did stenographically report the  
17 foregoing deposition of [REDACTED]; that a  
review of the transcript was not requested; and  
18 that the transcript is a true record of my  
stenographic notes.

19 I FURTHER CERTIFY that I am not a  
relative, employee, attorney, or counsel of any  
20 of the parties, nor am I a relative or employee of  
any of the parties' attorney or counsel connected  
21 with the action, nor am I financially interested  
in the action.

22 Dated this 23rd day of June, 2016.

23  
24 KELLI ANN WILLIS, RPR, CRR  
25

# **EXHIBIT E**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA

3 JANE DOE NO. 2, CASE NO: 08-CV-80119  
4 Plaintiff,  
5 Vs.  
6 JEFFREY EPSTEIN,  
7 Defendant.

8 \_\_\_\_\_/  
9 JANE DOE NO. 3, CASE NO: 08-CV-80232  
10 Plaintiff,

**CONDENSED**

11 Vs.  
12 JEFFREY EPSTEIN,  
13 Defendant.

14 \_\_\_\_\_/  
15 JANE DOE NO. 4, CASE NO: 08-CV-80380  
16 Plaintiff,  
17 Vs.  
18 JEFFREY EPSTEIN,  
19 Defendant.

20 \_\_\_\_\_/  
21 JANE DOE NO. 5, CASE NO: 08-CV-80381  
22 Plaintiff,

23 Vs.  
24 JEFFREY EPSTEIN,  
25 Defendant.

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7115 Rue Notre Dame, Miami Beach, FL 33141

NON PARTY (VR) 000315

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 271</p> <p>1 JANE DOE NO. 6, CASE NO: 08-CV-80994<br/>2 Plaintiff,<br/>3 Vs.<br/>4 JEFFREY EPSTEIN,<br/>5 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>6 JANE DOE NO. 7, CASE NO: 08-CV-80993<br/>7 Plaintiff,<br/>8 Vs.<br/>9 JEFFREY EPSTEIN,<br/>10 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>11 C.M.A., CASE NO: 08-CV-80811<br/>12 Plaintiff,<br/>13 Vs.<br/>14 JEFFREY EPSTEIN,<br/>15 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>16 JANE DOE, CASE NO: 08-CV-80893<br/>17 Plaintiff,<br/>18 Vs.<br/>19 JEFFREY EPSTEIN,<br/>20 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>21<br/>22<br/>23<br/>24<br/>25</p> | <p style="text-align: right;">Page 273</p> <p>1 IN THE CIRCUIT COURT OF THE 15TH<br/>2 JUDICIAL CIRCUIT IN AND FOR<br/>3 PALM BEACH COUNTY, FLORIDA<br/>4 CASE NO. 502008CA037319XXXXMB AB</p> <p>5 B.B.,<br/>6 Plaintiff,<br/>7 Vs.<br/>8 JEFFREY EPSTEIN,<br/>9 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>10<br/>11<br/>12 1031 Ives Dairy Road<br/>13 Suite 228<br/>14 North Miami, Florida<br/>15 August 7, 2009<br/>16 1:15 p.m. to 5:30 p.m.</p> <p>17 CONTINUED<br/>18 VIDEOTAPED<br/>19 DEPOSITION<br/>20 of<br/>21 ALFREDO RODRIGUEZ</p> <p>22 taken on behalf of the Plaintiffs pursuant<br/>23 to a Re-Notice of Taking Continued Videotaped<br/>24 Deposition (Duces Tecum)<br/>25 ---</p>                                                                                                                                                                                                 |
| <p style="text-align: right;">Page 272</p> <p>1 JANE DOE NO. II, CASE NO: 08-CV-80469<br/>2 Plaintiff,<br/>3 Vs.<br/>4 JEFFREY EPSTEIN,<br/>5 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>6 JANE DOE NO. 101 CASE NO: 08-CV-80591<br/>7 Plaintiff,<br/>8 Vs.<br/>9 JEFFREY EPSTEIN,<br/>10 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>11 JANE DOE NO. 102, CASE NO: 08-CV-80656<br/>12 Plaintiff,<br/>13 Vs.<br/>14 JEFFREY EPSTEIN,<br/>15 Defendant.</p> <hr style="width: 20%; margin-left: 0;"/> <p>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>                                                                                                            | <p style="text-align: right;">Page 274</p> <p>1 APPEARANCES:<br/>2<br/>3 MERMELSTEIN &amp; HOROWITZ, P.A.<br/>4 BY: ADAM HOROWITZ, ESQ.<br/>5 18205 Biscayne Boulevard<br/>6 Suite 2218<br/>7 Miami, Florida 33160<br/>8 Attorney for Jane Doe 2, 3, 4, 5,<br/>9 6, and 7.</p> <p>10 ROTHSTEIN ROSENFELDT ADLER<br/>11 BY: BRAD J. EDWARDS, ESQ., and<br/>12 CARA HOLMES, ESQ.<br/>13 Las Olas City Centre<br/>14 Suite 1650<br/>15 401 East Las Olas Boulevard<br/>16 Fort Lauderdale, Florida 33301<br/>17 Attorney for Jane Doe and E.W.<br/>18 And L.M.</p> <p>19 PODHURST ORSECK<br/>20 BY: KATHERINE W. EZELL, ESQ.<br/>21 25 West Flagler Street<br/>22 Suite 800<br/>23 Miami, Florida 33130<br/>24 Attorney for Jane Doe 101 and 102.</p> <p>25 LEOPOLD-KUVIN<br/>26 BY: ADAM J. LANGINO, ESQ.<br/>27 2925 PGA Boulevard<br/>28 Suite 200<br/>29 Palm Beach Gardens, Florida 33410<br/>30 Attorney for B.B.</p> |

2 (Pages 271 to 274)

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Page 275</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 RICHARD WILLITS, ESQ.<br/>2290 10th Avenue North<br/>4 Suite 404<br/>Lake Worth, Florida 33461<br/>5 Attorney for C.M.A.<br/>6 Appeared via telephone.</p> <p>7</p> <p>8 BURMAN, CRITTON, LUTTIER &amp;<br/>COLEMAN, LLP<br/>9 BY: ROBERT CRITTON, ESQ.<br/>515 North Flagler Drive<br/>10 Suite 400<br/>West Palm Beach, Florida 33401<br/>Attorney for Jeffrey Epstein.</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13</p> <p>14 JOE LANGSAM, VIDEOGRAPHER</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                                                                          | <p>Page 277</p> <p>1 Deposition taken before MICHELLE PAYNE, Court<br/>2 Reporter and Notary Public in and for the State of<br/>3 Florida at Large, in the above cause.</p> <p>4</p> <p>5 THE VIDEOGRAPHER: This is a continuation<br/>6 of the deposition of Alfredo Rodriguez.<br/>7 Today is Friday, August the 7th, the year<br/>8 2009, starting time approximately 1:15 p.m.<br/>9 Will the court reporter please swear in<br/>10 the witness?<br/>11 Thereupon,<br/>12 ALFREDO RODRIGUEZ,<br/>13 having been first duly sworn or affirmed, was<br/>14 examined and testified as follows:<br/>15 MR. CRITTON: Before we get started just<br/>16 with regard to Ms. Ezell represents Jane Doe<br/>17 101 and 102, the alleged time of her<br/>18 incidents as of least have been plead in the<br/>19 complaint for 101 is '99 -- I'm sorry, '98<br/>20 through 2002, with Jane Doe 102 the Spring<br/>21 of -- Spring/Summer of 2003. Mr. Rodriguez<br/>22 never even began employment until '04 and<br/>23 '05. I think her questioning I think -- I<br/>24 can't say she doesn't have standing based on<br/>25 the court order, but I would say it's</p> |
| <p>Page 276</p> <p>1 CONTINUED INDEX OF EXAMINATION</p> <p>2</p> <p>3 WITNESS DIRECT CROSS REDIRECT RECROSS</p> <p>4 ALFREDO RODRIGUEZ</p> <p>5 (By Ms. Ezell) 278 441, 467</p> <p>6 (By Mr. Willits) 334 453, 469</p> <p>7 (By Mr. Critton) 338 464</p> <p>8 (By Mr. Edwards) 419, 454, 468</p> <p>9 (By Mr. Langino) 452</p> <p>10</p> <p>11</p> <p>12 CONTINUED INDEX OF EXHIBITS</p> <p>13 PLAINTIFF'S PAGE</p> <p>14 3 Drawing 315</p> <p>15 4 Photograph 327</p> <p>16 5 Photograph 331</p> <p>17 6 Photograph 331</p> <p>18 7 Photograph 331</p> <p>19 8 Photograph 331</p> <p>20 9 Report 446</p> <p>21 (Exhibits 4, 5, 6, 7, and 8 were retained by Ms.<br/>Ezell.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>Page 278</p> <p>1 completely irrelevant and immaterial and has<br/>2 no probative value with regard to this<br/>3 particular witness based upon the two<br/>4 clients at least that are in suit at this<br/>5 point in time.<br/>6 MS. EZELL: As Mr. Critton well knows I<br/>7 represent a number of other clients whose<br/>8 cases have not been filed and I believe we<br/>9 do have standing to ask questions, and I do<br/>10 intend to do that today.<br/>11 EXAMINATION<br/>12 BY MS. EZELL:<br/>13 Q. Mr. Rodriguez, you stated last time that<br/>14 there were guests at the house, frequent guests,<br/>15 friends from Harvard.<br/>16 Do you remember that testimony?<br/>17 A. Yes, ma'am.<br/>18 Q. And was there a lawyer from Harvard named<br/>19 Alan Dershowitz?<br/>20 A. Yes, ma'am.<br/>21 Q. And are you familiar with the fact that<br/>22 he's a famous author and famous lawyer?<br/>23 A. Yes, ma'am.<br/>24 Q. How often during the six months or so<br/>25 that you were there was Mr. Dershowitz there?</p>                                                                                                                  |

3 (Pages 275 to 278)

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NON PARTY (VR) 000317



Page 439

1 Q. And you said that that was -- the massage  
 2 table was similar in kind to that used by Mr.  
 3 Epstein?  
 4 A. That's correct.  
 5 Q. And others had massage oils and that was  
 6 similar in kind to Mr. Epstein's as well?  
 7 A. Yes.  
 8 Q. And you didn't think that the massage  
 9 table at a home was unusual?  
 10 A. No.  
 11 Q. All right. Did any of the other houses  
 12 where you worked have masseuses that were 14, 15,  
 13 and 16 years old?  
 14 MR. CRITTON: Form.  
 15 THE WITNESS: No, sir.  
 16 BY MR. EDWARDS:  
 17 Q. And did any of the other homes where you  
 18 worked have different girls of that age coming  
 19 every single day?  
 20 A. Yes.  
 21 MR. CRITTON: Form.  
 22 BY MR. EDWARDS:  
 23 Q. They had different girls?  
 24 A. Yes.  
 25 Q. Okay. And how old were the girls that

Page 440

1 would come to these other homes?  
 2 A. They seem older.  
 3 Q. Older than the ones that would come to  
 4 Mr. Epstein's home?  
 5 A. Yes.  
 6 Q. And did you ever work at a place where  
 7 there would be girls calling up on the phone to  
 8 say I have girls to bring him and --  
 9 A. No, sir.  
 10 Q. -- coming over in teams --  
 11 A. No.  
 12 Q. -- or pairs?  
 13 A. No.  
 14 Q. So there were a lot of things about Mr.  
 15 Epstein's house and his arrangement that were very  
 16 unusual compared to the other places where you  
 17 worked?  
 18 MR. CRITTON: Form.  
 19 THE WITNESS: Yes.  
 20 BY MR. EDWARDS:  
 21 Q. And there were no drugs and alcohol or no  
 22 wild parties at Mr. Epstein's house, that is  
 23 somewhat different from some of the other places  
 24 where you worked?  
 25 A. Yes.

Page 441

1 MR. EDWARDS: I don't have anything else.  
 2 MS. EZELL: I have a few.  
 3 EXAMINATION  
 4 BY MS. EZELL:  
 5 Q. Mr. Rodriguez, I may have missed  
 6 something. Did you say that there weren't any  
 7 wild parties ever at El Brillo Way?  
 8 A. I never saw what was going on inside the  
 9 house, Ma'am.  
 10 Q. So you don't know wether there were or  
 11 were not?  
 12 A. No, ma'am.  
 13 Q. There wasn't just one massage table  
 14 there; was there?  
 15 A. We used to have two and we have an extra  
 16 reserve, I think there were three in the house.  
 17 Excuse me, I'll take that back. All the bedrooms  
 18 used to have one.  
 19 Q. Okay. Thank you. Did you ever hear  
 20 about a girl named V.R.?  
 21 A. No, no, ma'am.  
 22 Q. And those pictures on Ms. Maxwell's  
 23 computer, did you ever see one of a girl naked in  
 24 a hammock?  
 25 MR. CRITTON: Form. Asked and answered.

Page 442

1 THE WITNESS: I saw on a book not on a  
 2 computer.  
 3 BY MS. EZELL:  
 4 Q. You saw a picture of a girl naked in a  
 5 book or on a book?  
 6 A. The book was done for [REDACTED] and she was  
 7 on the hammock, that's the only one I saw.  
 8 Q. I'm sorry, the book was done for [REDACTED]  
 9 A. She was on the cover.  
 10 Q. Then there were other people inside the  
 11 book?  
 12 A. Yes, ma'am.  
 13 Q. And in that book there was a picture of a  
 14 girl naked in a hammock?  
 15 A. Yes.  
 16 Q. Where did [REDACTED] keep that book?  
 17 A. There were a few of those examples but I  
 18 don't know where she kept it.  
 19 Q. Was it laying around the house somewhere?  
 20 A. Yes.  
 21 Q. Downstairs?  
 22 A. Downstairs, yes, ma'am.  
 23 Q. Did Nadia keep scrapbooks or photograph  
 24 books --  
 25 A. Yes.

Page 463

1 Q. -- to sexually please Mr. Epstein.  
 2 Right?  
 3 MR. CRITTON: Form.  
 4 THE WITNESS: Yes.  
 5 BY MR. EDWARDS:  
 6 Q. I mean, that's what you were telling the  
 7 police officer.  
 8 MR. CRITTON: Form.  
 9 THE WITNESS: Yes.  
 10 BY MR. EDWARDS:  
 11 Q. Okay. There's always a different girl at  
 12 the pool or inside with him when he's here.  
 13 MR. CRITTON: Form.  
 14 THE WITNESS: Yes.  
 15 MS. EZELL: You left out a word, young.  
 16 BY MR. EDWARDS:  
 17 Q. Sorry, I'll read the last sentence again.  
 18 There's always a different young girl at  
 19 the pool or inside with him when he's here.  
 20 Do you remember telling the police  
 21 officer that?  
 22 A. Yes.  
 23 MR. CRITTON: Form.  
 24 BY MR. EDWARDS:  
 25 Q. And that's true. Right?

Page 464

1 A. Yes.  
 2 Q. When he's at the house there is always a  
 3 young girl inside with him.  
 4 MR. CRITTON: Form.  
 5 BY MR. EDWARDS:  
 6 Q. Right?  
 7 A. That's right.  
 8 Q. Okay. And whether the company line is to  
 9 call them a masseuse, you knew that these girls  
 10 were young and were up in the bedroom with Mr.  
 11 Epstein to sexually please Mr. Epstein.  
 12 MR. CRITTON: Form.  
 13 THE WITNESS: That's right.  
 14 MR. EDWARDS: I don't have anything else.  
 15 We've already attached this; right? Here is  
 16 the one that can be attached.  
 17 MR. WILLITS: Who is next?  
 18 MR. CRITTON: Me.  
 19 RE-CROSS EXAMINATION  
 20 BY MR. CRITTON:  
 21 Q. Mr. Rodriguez, looking at Exhibit 9 which  
 22 is the police report that was prepared on November  
 23 28, 2004, this is the first time you've seen it.  
 24 Correct?  
 25 A. That's correct.

Page 465

1 Q. And as to -- it was read to you by Mr.  
 2 Edwards and he then asked you a number of  
 3 questions whether you remembered something.  
 4 Correct?  
 5 A. Yes.  
 6 Q. Okay. Just so I'm clear, he's asking you  
 7 to speculate on what may or may not have occurred  
 8 upstairs in the bedroom. I want to be very clear.  
 9 Mr. Rodriguez, were you ever up in the  
 10 bedroom to observe whatever went on between a  
 11 masseuse and Mr. Epstein or anyone else for that  
 12 matter at any time?  
 13 MR. HOROWITZ: Form.  
 14 THE WITNESS: No, sir.  
 15 BY MR. CRITTON:  
 16 Q. And so when Mr. Edwards asked you, you  
 17 were aware that sexual activity or may have been  
 18 sexual activity occurring upstairs, you have no  
 19 personal knowledge, you're just speculating;  
 20 aren't you, sir?  
 21 MR. HOROWITZ: Form.  
 22 MR. EDWARDS: Object to the form.  
 23 THE WITNESS: I never saw them.  
 24 BY MR. WILLITS:  
 25 Q. And therefore you can only speculate --

Page 466

1 MR. WILLITS: Object to the form.  
 2 MR. CRITTON: I need to ask the question  
 3 first.  
 4 MR. WILLITS: It was the earlier  
 5 question.  
 6 BY MR. CRITTON:  
 7 Q. All right. If you did not see what was  
 8 going on you can have no personal knowledge.  
 9 True?  
 10 MR. HOROWITZ: Object to the form.  
 11 MR. EDWARDS: Object to the form.  
 12 THE WITNESS: Yes.  
 13 BY MR. CRITTON:  
 14 Q. And, therefore, what you're doing is  
 15 speculating or guessing what may have been  
 16 occurring. True?  
 17 MR. HOROWITZ: Form.  
 18 MR. EDWARDS: Form.  
 19 MR. WILLITS: Form.  
 20 THE WITNESS: I use my age together.  
 21 BY MR. CRITTON:  
 22 Q. I'm not saying that you don't, but  
 23 without having personal knowledge you're best  
 24 guessing what may have occurred up there between  
 25 Mr. Epstein and one of the massage women, or for

50 (Pages 463 to 466)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 467</p> <p>1 that matter anyone else who was upstairs?<br/>                 2 A. Yes.<br/>                 3 MR. HOROWITZ: Form.<br/>                 4 MR. EDWARDS: Form.<br/>                 5 MR. WILLITS: Object to the form.<br/>                 6 MR. CRITTON: Thank you.<br/>                 7 MS. EZELL: I just have a couple of<br/>                 8 questions.<br/>                 9 EXAMINATION<br/>                 10 BY MS. EZELL:<br/>                 11 Q. Following up on that, you did however see<br/>                 12 this same young woman asleep naked in the sauna?<br/>                 13 A. Yes, ma'am.<br/>                 14 Q. And you did along with Louella find and<br/>                 15 -- and you did also find sex toys and massagers of<br/>                 16 various kinds and creams scattered around on<br/>                 17 several occasions after these young women had been<br/>                 18 upstairs with Mr. Epstein?<br/>                 19 MR. CRITTON: Object to form, asked and<br/>                 20 answered about six times.<br/>                 21 THE WITNESS: Yes.<br/>                 22 MS. EZELL: No other questions.<br/>                 23 MR. EDWARDS: Sorry, last one. It has<br/>                 24 nothing to do with this report.<br/>                 25 EXAMINATION</p>                                                                                                  | <p style="text-align: right;">Page 469</p> <p>1 A. Yes.<br/>                 2 MR. EDWARDS: Nothing else.<br/>                 3 MR. WILLITS: Is it my turn?<br/>                 4 MR. EDWARDS: Yes.<br/>                 5 EXAMINATION<br/>                 6 BY MR. WILLITS:<br/>                 7 Q. Mr. Rodriguez, you mentioned the last<br/>                 8 time about a lady who was an obvious professional<br/>                 9 masseuse by the name of Johanna. Do you remember<br/>                 10 that?<br/>                 11 A. Yes, I do remember.<br/>                 12 Q. Did you ever pay her?<br/>                 13 A. Yes, sir.<br/>                 14 Q. Okay. How much did you pay her?<br/>                 15 A. It was between 200 and 500, sir, but<br/>                 16 somewhere in that -- between those two amounts.<br/>                 17 Q. For Johanna?<br/>                 18 A. Yes, sir.<br/>                 19 MR. WILLITS: Okay. I don't have any<br/>                 20 other questions.<br/>                 21 MR. CRITTON: You have a right to read<br/>                 22 this deposition when the other part is typed<br/>                 23 and make any changes that you want. Would<br/>                 24 you like to do that? It's your right a<br/>                 25 hundred percent. The court reporter can</p> |
| <p style="text-align: right;">Page 468</p> <p>1 BY MR. EDWARDS:<br/>                 2 Q. During Mr. Critton's questioning he asked<br/>                 3 you about whether or not we had ever shown you a<br/>                 4 previous taped statement that you had given to a<br/>                 5 police officer, and we did not do that; did we?<br/>                 6 A. No.<br/>                 7 Q. We can represent to you that we don't<br/>                 8 have it to show it to you otherwise we would like<br/>                 9 to do that.<br/>                 10 However, he asked you did you tell the<br/>                 11 police officers at that time that the girls<br/>                 12 appeared to be 18 years or older, and I believe<br/>                 13 that you said when you gave the statement to the<br/>                 14 police that you did; right, say that?<br/>                 15 A. Yes.<br/>                 16 Q. And I wrote, I put it in quotes, you said<br/>                 17 that because you were fearful of reprise from<br/>                 18 Ms. Maxwell and Mr. Epstein.<br/>                 19 A. That's correct.<br/>                 20 MR. CRITTON: Form.<br/>                 21 BY MR. EDWARDS:<br/>                 22 Q. Okay. Is everything that you've said<br/>                 23 today and told us today, is it true?<br/>                 24 A. Yes.<br/>                 25 Q. To the best of your knowledge?</p> | <p style="text-align: right;">Page 470</p> <p>1 provide you or whoever set your<br/>                 2 deposition --<br/>                 3 THE WITNESS: I tried to be truthful.<br/>                 4 MR. CRITTON: All you have to do is tell<br/>                 5 her you would like to waive. Do you waive<br/>                 6 the reading and signing?<br/>                 7 MR. EDWARDS: You can either read or you<br/>                 8 can waive reading?<br/>                 9 THE WITNESS: I don't understand what I<br/>                 10 have to do.<br/>                 11 MR. CRITTON: Why don't we go off the<br/>                 12 record and you can explain it to him.<br/>                 13 MR. EDWARDS: We can go off the record.<br/>                 14 THE VIDEOGRAPHER: Off the record.<br/>                 15 (Thereupon, a discussion was held off the<br/>                 16 record.)<br/>                 17 THE WITNESS: Waive.<br/>                 18 (Thereupon, the deposition was concluded<br/>                 19 at 5:30 p.m.)<br/>                 20 - - -<br/>                 21<br/>                 22<br/>                 23<br/>                 24<br/>                 25</p>                                                                                                                                                  |

51 (Pages 467 to 470)

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NON PARTY (VR) 000365

Page 471

1 THE STATE OF FLORIDA, )  
 2 COUNTY OF DADE. )  
 3  
 4  
 5 I, the undersigned authority, certify  
 6 that ALFREDO RODRIGUEZ personally appeared before  
 7 me on the 7th day of August, 2009 and was duly  
 8 sworn.  
 9  
 10 WITNESS my hand and official seal this  
 11 18th day of August, 2009.  
 12  
 13  
 14  
 15  
 16 \_\_\_\_\_  
 17 MICHELLE PAYNE, Court Reporter  
 18 Notary Public - State of Florida  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 472

1 CERTIFICATE  
 2  
 3 The State Of Florida, )  
 4 County Of Dade. )  
 5  
 6 I, MICHELLE PAYNE, Court Reporter and  
 7 Notary Public in and for the State of Florida at  
 8 large, do hereby certify that I was authorized to  
 9 and did stenographically report the deposition of  
 10 ALFREDO RODRIGUEZ; that a review of the transcript  
 11 was not requested; and that the foregoing pages,  
 12 numbered from 270 to 472, inclusive, are a true  
 13 and correct transcription of my stenographic notes  
 14 of said deposition.  
 15 I further certify that said deposition was  
 16 taken at the time and place hereinabove set forth  
 17 and that the taking of said deposition was  
 18 commenced and completed as hereinabove set out.  
 19  
 20 I further certify that I am not an  
 21 attorney or counsel of any of the parties, nor am  
 22 I a relative or employee of any attorney or  
 23 counsel of party connected with the action, nor am  
 24 I financially interested in the action.  
 25

16 The foregoing certification of this  
 17 transcript does not apply to any reproduction of  
 18 the same by any means unless under the direct  
 19 control and/or direction of the certifying  
 20 reporter.  
 21  
 22 DATED this 18th day of August, 2009.  
 23  
 24 \_\_\_\_\_  
 25 MICHELLE PAYNE, Court Reporter

52 (Pages 471 to 472)

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Honorable Judge Robert Sweet  
United States District Court  
Page -2-

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As reflected in the above flight log, on December 10, 2006 (Flight #1919), Sarah Ransome flew from EWR (Newark, NJ) to TIST (USVI) with Jeffrey Epstein, Jennifer Kalin, and Natalya Malyshev. On December 14, 2006 (Flight #1920), Sarah Ransome flew from TIST (USVI) to EWR (Newark, NJ) with Jeffrey Epstein and Nadia Marcinkova. *See* Giuffre 07139. Ms. Ransome was also flown commercially to Jeffrey Epstein's Island several times.

Defendant was obligated under Rule 26 to include Ms. Ransome in her Rule 26 disclosures: Defendant *knows* that Ms. Ransome is an "individual likely to have discoverable information." Fed. R. Civ. P. 26(a)(A)(i). As Ms. Ransome will testify, Defendant was on the island with her and interacted with her on a regular basis. Defendant's refusal to disclose her is not only (yet another) discovery violation, but also a part of the secrecy that Defendant and Epstein strove to maintain surrounding their sex trafficking ring. Defendant should not be allowed to participate in a sex trafficking ring, conceal the witnesses (and victims) of that ring, and then proclaim "surprise" when Ms. Giuffre succeeds in locating one of the victims. Simply put, she should not be allowed to benefit from her obvious failure to properly disclose Ms. Ransome.

**Ms. Ransome's Testimony is Not Cumulative And Has Highly Relevant Evidence**

Defendant also advances the remarkable argument that it is "unlikely" that Ms. Ransome will have relevant information. Yet Ms. Ransome witnessed – first hand – Defendant's involvement in sex trafficking with Jeffrey Epstein. Nor will her testimony be cumulative. First, at the heart of this case is Defendant's sworn testimony that she was not involved in sex trafficking with Epstein. Ms. Ransome can directly refute Defendant's sworn testimony under oath in numerous ways.

...the primary purpose of those visits was to have me have sexual relations with Jeffrey, Nadia Marcinkova, and various other girls and guests brought to the island...During one of my first visits to the island I met Ghislaine Maxwell. Watching her interact with the other girls on the island, it became clear to me that she recruited all or many of them to the island. Once they were there, she appeared to be in charge of their activities, including what they did, who they did it with, and how they were supposed to stay in line. She assumed the same supervisory role with me as soon as I arrived. Some of the girls appeared to be 18 or older but many appeared to be young teenagers.

Exhibit A, Affidavit of Sarah Ransome. In addition, Defendant has made known her plan to put forth Alan Dershowitz as a witness at trial to testify that Ms. Giuffre is lying, and that he never had sex with her or anyone else provided by Jeffrey Epstein. While Ms. Giuffre contends that Dershowitz's testimony is not relevant to this case concerning Defendant, in the event that the Court disagrees, Ms. Ransome directly contradicts this testimony because, as part of her

Honorable Judge Robert Sweet  
United States District Court  
Page -3-

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involvement in the sex trafficking ring, like Ms. Giuffre, Ms. Ransome was also required to engage in sexual acts with Jeffrey Epstein and Alan Dershowitz.

In addition to spending time with Jeffrey on his island, I spent time with him in New York City...Among the people he lent me to was his friend Alan Dershowitz. On one occasion I was in a bedroom at Jeffrey's New York townhouse with Jeffrey and Nadia Marcinkova. After a short time, Alan Dershowitz entered the room after which Jeffrey left the room and Nadia and I had sex with Dershowitz...

See Exhibit A. Affidavit of Sarah Ransome. The testimony of Ms. Ransome goes to the heart of this defamation claim – whether or not Ms. Giuffre was truthful in her claims about Defendant's involvement in Epstein's sex trafficking ring, and the Court should allow the jury to hear her.

**Ms. Giuffre Has Diligently Participated In Discovery And Promptly Disclosed Ms. Ransome After Conducting Due Diligence**

Defendant also insinuates that Ms. Giuffre has delayed in disclosing Ms. Ransome. But as the Court is well aware, Ms. Giuffre has previously diligently disclosed close to 100 individuals who may have relevant information in her Rule 26 disclosures. By contrast, Defendant's Rule 26 disclosures never listed Ms. Ransome as a witness, despite the fact that Defendant was in her company on several occasions including on Epstein's island, where Ms. Ransome was one of several girls being sexually trafficked for Epstein upon the direction and insistence of Defendant. After being contacted by Ms. Ransome, counsel for Ms. Giuffre properly conducted a due diligence investigation into whether the information she provided had merit. Specifically, Ms. Giuffre's counsel undertook the expense to fly to Europe to meet in person with this newly disclosed witness on January 4, 2017, returning on January 6, 2017, to fully evaluate her credibility. Upon evaluating the witness and upon the witness confirming that she was willing to sign an affidavit under oath regarding her testimony, Ms. Giuffre arranged to have a sworn affidavit executed at the U.S. Embassy in the country where Ms. Ransome resides. Ms. Giuffre then issued revised Rule 26 disclosures on January 13, 2017 and informed Defendant that she would produce Ms. Ransome for a deposition as a newly-disclosed witness immediately so as to avoid any prejudice or delay in the March 13, 2017 trial date. In short, Ms. Giuffre acted promptly and reasonably after being contacted by this victim of Epstein's and Defendant's sex trafficking ring.

**Defendant Will Not Be Prejudiced Because Ms. Ransome is Readily Available for Deposition**

Honorable Judge Robert Sweet  
United States District Court  
Page -4-

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Defendant's argument about her alleged burden from allowing this one additional witness also rings hollow.<sup>1</sup> Defendant complains about her alleged lack of resources, but as this Court is aware, Defendant is a wealthy socialite (who recently sold her New York Townhome for \$15 million dollars) who has heavily litigated this case in ways that were completely unnecessary.<sup>2</sup>

Moreover, deposition discovery is still ongoing in this case. Ms. Kellen sat for her deposition last week (wherein she invoked the Fifth Amendment when asked about Defendant's involvement in Epstein's sex trafficking ring) along with Ms. Marcinkova who was recently deposed on January 17, 2017. Due to Defendant's unwillingness to produce her agent, Ross Gow for deposition, Ms. Giuffre did not get to depose him until November 18, 2017 at which time he produced never-before-seen documents that are critical to this case. Defendant has yet to sit for her follow-up deposition that was directed by the Court but for which Defendant filed a "Motion for Reconsideration" on November 16, 2016, which is still pending. Needless to say, while the official discovery deadline has closed, certain depositions have been taken more recently due to issues with witness cooperation. Of course, if Defendant does not desire to take Ms. Ransome's deposition, then Ms. Giuffre is content simply calling her at trial. But Defendant will hardly be prejudiced by allowing a witness to testify who is available for deposition.

---

<sup>1</sup> Defendant argues that because Jane Doe 43 (who for purposes of this sealed filing we can identify as Ms. Ransome) has recently filed a complaint against multiple defendants for violations of sex trafficking laws that Defendant should get to reopen discovery and further investigate everyone named as a Defendant. Notably, these are all individuals that were part of the sexual trafficking ring that Defendant was a party to and she has known about them and interacted with them for years. Ms. Ransome's claim had to be filed swiftly because her statute of limitations was continuing to run and the details of her allegations only recently became known to counsel. In any event, the questions that need to be asked of Ms. Ransome are simply and straightforward: Was Defendant involved in Epstein's sex trafficking ring? That question has been at the heart of this case for many months and exploring it does not raise any new issues.

<sup>2</sup> For example, Defendant litigated over the production of facially non-privileged documents; Defendant filed no fewer than three frivolous sanctions motions; Defendant filed *Daubert* challenges to all six of Ms. Giuffre's expert witnesses; and Defendant has filed discovery motions without even conferring with Ms. Giuffre in advance, including one for which Ms. Giuffre did not oppose the relief sought (Defendant's motion to reopen Ms. Giuffre's deposition). Further, Defendant apparently had the resources to file approximately 100 pages of single-spaced objections to Ms. Giuffre deposition designations, an unorthodox volume that stands out not simply because this is a one-count defamation claim, but because she objects to the same type of testimony that she has designated for admission.



Honorable Judge Robert Sweet  
United States District Court  
Page -5-

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The Case Law Supports Allowing Ms. Ransome As A Trial Witness

Ms. Giuffre has offered Defendant, subject to this Court's approval, the opportunity to take Ms. Ransome's deposition. And, as this Court has already explained, taking the deposition of a newly-discovered witness cures any prejudice: "[t]his and other courts have adopted the taking of depositions as an appropriate mechanism to address late-disclosed witnesses." *MBIA Ins. Corp. v. Patriarch Partners VIII, LLC*, 201 WL 2568972, at \*14-15 (S.D.N.Y. Sept. 29, 2003) (concluding that plaintiff should be given the opportunity to depose a late-identified witness).

The cases that Defendant cites are all vastly different from the case before this Court and are easily distinguishable. In *Gray v. Town of Darien*, 927 F.2d 69 (2d Cir.1991), the court denied the motion to reopen discovery and granted summary judgment because the plaintiff failed to seek any discovery during the six-month discovery period set forth by the court. In stark contrast, Ms. Giuffre has actively engaged in discovery. The fact that this witness had critical information as a victim of Epstein and Defendant's sex trafficking ring could not have been known by Ms. Giuffre until the witness contacted Ms. Giuffre's lawyers. In *Trebor Sportswear Co., Inc. v. The Limited Stores, Inc.*, 865 F.2d 506 (2d Cir. 1989), a case involving a statute of frauds issue, the court would not let the parties re-open discovery because there was no reason to believe that they would find a missing written agreement. Here, Ms. Giuffre has found a witness who has will provide to the jury critical information about Defendant's involvement in sex trafficking that directly contradicts Defendant's sworn testimony. In *Smith v. United States*, 834 F.2d 166 (10th Cir. 1987), the plaintiff made his request for a new witness on *the morning of trial*, having had eight months to conduct depositions. Additionally, the Tenth Circuit found that the new witness would not even be relevant to the narrow issue being addressed at trial. *Id.* at 169. In contrast, Ms. Giuffre has provided Defendant ample time to conduct discovery on Ms. Ransome, a witness who has vital evidence on the central issues in this case. In *Vineberg v. Bissonnette*, 548 F.3d 50, 55 (1st Cir. 2008), the First Circuit found that the defendant failed to point to any "relevant leads" that she might have obtained had the court reopened discovery. Here, it is patently obvious that Ms. Ransome holds a wealth of valuable information and is, as Defendant herself admits, a significant witness. Finally, in *Jeannite v. City of N.Y. Dept., of Buildings*, 2010 WL 2542050, at \*2 (S.D.N.Y. June 21, 2010), plaintiff waited until the very end of discovery to make the request and had not sent any document requests or sought to depose any witnesses, which is in contrast to Ms. Giuffre having actively participated in discovery. Furthermore, there was no way for Ms. Giuffre to know that Ms. Ransome had such critical information until she called us *because Defendant never disclosed her*. Accordingly, Defendant fails to accurately support her claims with any relevant case law.

Conclusion

BOIES, SCHILLER & FLEXNER LLP

Honorable Judge Robert Sweet  
United States District Court  
Page -6-

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For the foregoing reasons, this Court should allow Ms. Giuffre to include Ms. Ransome as a witness to be called at the trial scheduled to begin on March 13, 2017. Again, Ms. Giuffre commits to making Ms. Ransome available for deposition at the reasonable convenience of Defendant's counsel.

Respectfully submitted,

s/Sigrid McCawley  
Sigrid McCawley

SM/

cc: Counsel of Record

EXHIBIT A  
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**CONFIDENTIAL**

United States District Court  
Southern District of New York

Virginia L. Giuffre,

Plaintiff,

Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.

AFFIDAVIT

I, Sarah Ransome, swear and affirm as follows:

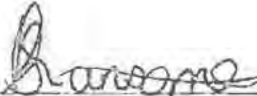
1. I am currently over the age of 18 and presently reside in the country of Spain.
2. In the summer of 2006, when I was twenty-two years old and living in New York, I was introduced to Jeffrey Epstein by a girl I had met named Natalya Malyshov. Shortly after meeting Jeffrey he invited me to fly to his private island in the US Virgin Islands, which I did. After that first trip I traveled to the island several more times, usually on one of Jeffrey's private airplanes, and always at his direction. I am told that my name appears on the flight logs of one or more of those trips. On a few occasions, Jeffrey also arranged to have me flown to the island on commercial flights. As it turned out, the primary purpose of those visits was to have me have sexual relations with Jeffrey, Nadia Macinkova, and various other girls and guests he brought to the island.
3. During one of my visits to the island I met Ghislaine Maxwell. Watching her interact with the other girls on the island, it became clear to me that she recruited all or many of them to the island. Once they were there, she appeared to be in charge of their activities, including what they did, who they did it with, and how they were supposed to stay in line. She assumed the same supervisory role with me as soon as I arrived. Some of the girls appeared to be 18 or older, but many appeared to be young teenagers. I recall seeing a particularly young, thin girl who looked well under 18 and recall asking her her age. I later learned she was a ballerina. She refused to tell me or let me see her passport.
4. In addition to spending time with Jeffrey on his island, I spent time with him in New York City. At his town house I was also lent out by him to his friends and

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associates to have sex. Among the people he lent me to was his friend, Alan Dershowitz. On one occasion I was in a bedroom at Jeffrey's New York townhouse with Jeffrey and Nadia Marcinkova. After a short time, Alan Dershowitz entered the room, after which Jeffrey left the room and Nadia and I had sex with Dershowitz. I recall specific, key details of his person and the sex acts and can describe them in the event it becomes necessary to do so.

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

Dated: 05-01-2017



\_\_\_\_\_

Sarah Ransome

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CERTIFICATE OF ACKNOWLEDGMENT OF EXECUTION OF AN INSTRUMENT

The Kingdom of Spain (Country)

Province of Barcelona (County and/or Other Political Division)

City of Barcelona (County and/or Other Political Division)

} SS:

Consulate Gral. of the United States of America (Name of Foreign Service Office)

I, Hsiao-Ching Chang, Vice Consul

of the United States of America at

Barcelona, Spain

duly commissioned and qualified, do hereby certify that on this day of

01-05-2017 Date (mm-dd-yyyy)

, before me personally appeared

Sarah Emma Ashley RANSOME-----

to me personally known, and known to me to be the individual described in, whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument she duly acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein mentioned.

Hsiao-Ching Chang signature

[SEAL]

In witness whereof I have hereunto set my hand and official seal the day and year last above written.

Hsiao-Ching Chang

Vice Consul of the United States of America.

This document consists of 4 pages, including the Acknowledgement certificate.

NOTE: Wherever practicable all signatures to a document should be included in one certificate.

**United States District Court  
Southern District of New York**

Virginia L. Giuffre,

Plaintiff,

Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.

---

**PLAINTIFF GIUFFRE'S RESPONSE IN OPPOSITION TO DEFENDANT'S  
MOTION *IN LIMINE* TO EXCLUDE *IN TOTO* CERTAIN DEPOSITIONS  
DESIGNATED BY PLAINTIFF FOR USE AT TRIAL**

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**TABLE OF CONTENTS**

|                                                                                                                                                         | <u>Page</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| PRELIMINARY STATEMENT .....                                                                                                                             | 1           |
| ARGUMENT .....                                                                                                                                          | 2           |
| I. EPSTEIN AND, POTENTIALLY, ESPLIN ARE UNAVAILABLE WITNESSES.....                                                                                      | 2           |
| A. Jeffrey Epstein is a Witness who is more than 100 miles from the place of hearing, or at a Minimum a Witness Who Cannot Be Subpoenaed. ....          | 2           |
| B. Esplin May Be an Unavailable Witness. ....                                                                                                           | 4           |
| II. EPSTEIN, [REDACTED], AND ESPLIN SHOULD ALL BE ALLOWED TO TESTIFY VIA DEPOSITION TESTIMONY. ....                                                     | 5           |
| A. Jeffrey Epstein. ....                                                                                                                                | 5           |
| B. [REDACTED] Deposition Should Be Allowed.....                                                                                                         | 7           |
| C. Esplin’s Deposition Should Be Allowed if Defendant Decides Not to Make Him Available at Trial. ....                                                  | 10          |
| III. ALFREDO RODRIGUEZ’S TESTIMONY IN AN EARLIER DEPOSITION SHOULD BE ALLOWED SINCE HE HAS SINCE DIED. ....                                             | 10          |
| A. Mr. Rodriguez’s Deposition Testimony is Admissible Under Fed. R. Evid. 804(b)(1). ....                                                               | 11          |
| B. If the Rodriguez Deposition is Not Admissible Under the Former Testimony Exception, It Should Be Admitted Under the Residual Hearsay Exception. .... | 13          |
| CONCLUSION .....                                                                                                                                        | 16          |
| CERTIFICATE OF SERVICE .....                                                                                                                            | 18          |



**TABLE OF AUTHORITIES**

|                                                                                                                 | <u>Page</u> |
|-----------------------------------------------------------------------------------------------------------------|-------------|
| <b><u>Cases</u></b>                                                                                             |             |
| <i>Amusement Indus., Inc. v. Stern</i> ,<br>No. 07CIV11586LAKGWG, 2016 WL 4249965 (S.D.N.Y. Aug. 11, 2016)..... | 6           |
| <i>Brookover v. Mary Hitchcock Mem'l Hosp.</i> ,<br>893 F.2d 411 (1st Cir. 1990).....                           | 14          |
| <i>In re Ashley</i> ,<br>903 F.2d 599 (9th Cir. 1990).....                                                      | 3           |
| <i>John Paul Mitchell Sys. v. Quality King Distributors, Inc.</i> ,<br>106 F. Supp. 2d 462 (S.D.N.Y. 2000)..... | 6           |
| <i>LiButti v. United States</i> ,<br>107 F.3d 110 (2d Cir. 1997).....                                           | 5, 6, 7     |
| <i>Lloyd v. American Export Lines, Inc.</i> ,<br>580 F.2d 1179 (3d Cir. 1978).....                              | 12, 13      |
| <i>S.E.C. v. Durante</i> ,<br>No. 01 CIV. 9056 DAB AJP, 2013 WL 6800226 (S.D.N.Y. Dec. 19, 2013).....           | 6           |
| <i>United States ex rel. Bilokumsky v. Tod</i> ,<br>263 U.S. 149 (1923).....                                    | 7           |
| <i>United States v. Carneglia</i> ,<br>256 F.R.D. 366 (E.D.N.Y. 2009).....                                      | 13          |
| <i>United States v. Salerno</i> ,<br>505 U.S. 317.....                                                          | 13          |
| <i>United States v. Sinclair</i> ,<br>109 F.3d 1527 (10th Cir. 1997).....                                       | 8           |
| <i>United States v. Valdez-Soto</i> ,<br>31 F.3d 1467 (9th Cir. 1994).....                                      | 14          |

**Rules**

|                                   |            |
|-----------------------------------|------------|
| Fed. R. Civ. P. 32 .....          | 11         |
| Fed. R. Civ. P. 32(a)(4)(D).....  | 3          |
| Fed. R. Civ. P. 32(a)(4)(E) ..... | 4          |
| Fed. R. Civ. P. 32(a)(8) .....    | 11         |
| Fed. R. Evid. 102 .....           | 15         |
| Fed. R. Evid. 601 .....           | 8          |
| Fed. R. Evid. 612.....            | 8          |
| Fed. R. Evid. 804.....            | 13         |
| Fed. R. Evid. 804(8) .....        | 9          |
| Fed. R. Evid. 804(b)(1).....      | 10, 11, 13 |
| Fed. R. Evid. 806 .....           | 11         |
| Fed. R. Evid. 807 .....           | 9, 14      |

Plaintiff Ms. Giuffre respectfully submits this Response in Opposition to Defendant's Motion in Limine to Exclude in Certain Depositions Designated by Plaintiff for Use at Trial.

**PRELIMINARY STATEMENT**

In carrying through on her threat to object to every piece of evidence that Ms. Giuffre intends to use at trial, Defendant Maxwell has raised three general objections to various depositions Ms. Giuffre has designated for use at trial.

First, Defendant argues that Jeffrey Epstein is not an unavailable witness and should appear as a live witness. Ms. Giuffre would like to have him appear at trial and it appears that Epstein's counsel is willing to accept a subpoena for him. If so, the issue is moot. But if for any reason that trial subpoena fails to secure his attendance, it is clear he is an unavailable witness since he previously evaded more than a dozen efforts to serve him with a pre-trial deposition subpoena.

Second, Defendant raises certain objections based on the fact that Jeffrey Epstein, [REDACTED] and Philip Esplin gave testimony that is helpful to Ms. Giuffre during their depositions and therefore she seeks to exclude that damaging testimony. This hardly provides a basis for excluding their evidence. Epstein should be allowed to testify so that Ms. Giuffre can obtain adverse inferences from his Fifth Amendment invocations. [REDACTED] and Esplin should be allowed to testify, via deposition, because they have information relevant for the jury.

Finally, Defendant objects to the use of a deposition of Alfredo Rodriguez. But because he has since passed away, the choice is between preventing the jury from hearing any of his testimony and using the earlier transcript. The transcript should be allowed.

**ARGUMENT**

**I. EPSTEIN AND, POTENTIALLY, ESPLIN ARE UNAVAILABLE WITNESSES.**

**A. Jeffrey Epstein is a Witness who is more than 100 miles from the place of hearing, or at a Minimum a Witness Who Cannot Be Subpoenaed.**

Defendant argues that Jeffrey Epstein can simply appear live at the trial since he “reside[s]” within 100 miles of the courthouse, Mot. at 2, and thus Ms. Giuffre can simply subpoena him. It appears that this issue has been resolved because Epstein’s attorneys have agreed to accept a trial subpoena on his behalf. *See* McCawley Dec. at Exhibit 1, Letter from Jack Goldberger, Esq. Epstein’s lawyers have also indicated they will be moving to quash his subpoena. If Epstein appears live at trial, then Ms. Giuffre will, of course, simply present that live testimony rather than rely on his recorded deposition.

In her motion, Defendant fails to mention the extraordinary efforts that Ms. Giuffre had to undertake to obtain the pre-trial deposition of Epstein. As the Court will recall from Ms. Giuffre’s Motion for Leave to Serve Three Deposition Subpoenas by Means Other Than Personal Service, filed May 25, 2016, Ms. Giuffre began by asking Epstein’s legal counsel to accept service of a subpoena in this matter. Epstein’s counsel refused. Accordingly, Ms. Giuffre was forced to retain an investigative company to attempt to locate Epstein for purposes of personal service. What followed were no less than sixteen attempts to personally service Epstein, including affixing subpoenas to his “temporary” address in New York. A copy of the subpoena was also provided to Epstein’s counsel.

As the Court will recall, Epstein was not the only person in the sex trafficking ring who was evading service. Sarah Kellen and Nadia Marcincova, two other conspirators who (along with Defendant), helped Epstein in his sex abuse and sex trafficking efforts were also evading service.

As a result of these efforts to evade service, Ms. Giuffre filed a motion for leave to proceed by way of alternative service with regard to Epstein. Before the Court could rule on the motion regarding Epstein, Epstein's legal counsel agreed to have Epstein appear for his deposition – in Florida.

Epstein has every motivation to evade service because the questions he would be asked at trial would involve his sexual abuse of minors. And given Epstein's success at evading sixteen earlier efforts to serve him, the Court should permit Ms. Giuffre to use Epstein's deposition at the upcoming trial – if, for any reason, he does not appear live. Under Fed. R. Civ. P. 32(a)(4)(D), a party may use a deposition of a witness when “the party offering the deposition could not procure the witness's attendance by subpoena.” A showing that the witness has evaded attempts to be served with a subpoena suffices to make the showing of unavailability. *See In re Ashley*, 903 F.2d 599, 603 (9th Cir. 1990). Furthermore, Defendant will suffer no prejudice if Epstein appears by way of deposition rather than through live testimony. As discussed at greater length in Part II below, Epstein is being called for purposes of securing an adverse inference from his invocation of his Fifth Amendment right against self-incrimination. In these circumstances, live testimony will not provide any significantly different testimony from that which has already been secured by deposition.

Notably, Ms. Giuffre has already attempted to serve a trial subpoena upon Epstein in New York. On February 8, 2017, an investigator from Alpha Group Investigations went to 9 East 71<sup>st</sup> Street, New York, New York, a mansion where Epstein had previously resided (and sexually abused Ms. Giuffre). *See McCawley Dec. at Exhibit 2, Affidavit of Anna Intriago.*

Even if Epstein is somehow deemed to be “available,” the Court retains discretion to allow the use of his deposition, where “on motion and notice” the Court finds “that exceptional

circumstances make it desirable – in the interest of justice and with due regard to the importance of live testimony in open court – to permit the deposition to be used.” Fed. R. Civ. P. 32(a)(4)(E). Given the importance of Epstein to this case, if for any reason he fails to appear, the Court should also exercise its discretion to allow his deposition to be used.

Defendant also argues that **Rinaldo Rizzo** is a witness who should appear live at the trial, rather than through deposition testimony. Ms. Giuffre agrees that it would be optimal if **Rizzo** were to appear in person at trial. Ms. Giuffre has contacted **Mr. Rizzo’s** counsel to attempt to secure his appearance at trial. She anticipates that he will indeed appear at trial. But should it appear that those efforts to secure his attendance at trial be unsuccessful, Ms. Giuffre reserves the right to ask the Court to present his testimony via the deposition designations she has made, as he would be, at that point, “unavailable.”

**B. Esplin May Be an Unavailable Witness.**

Ms. Giuffre has also designated certain excerpts from the deposition of one of Defendant’s own experts, Dr. Phillip Esplin. This designation was a defensive measure. Some of Esplin’s testimony was so favorable to Ms. Giuffre that she wanted to ensure it would be available to present to the jury. Counsel for Ms. Giuffre has contacted defense counsel to confirm that Defendant will still be calling Esplin to trial. Defense counsel has, thus far, refused to respond to this inquiry in any way.

If Defendant calls Esplin as a witness at trial, Ms. Giuffre would then have no need to rely upon his deposition testimony, as she would simply cover the same terrain via live questions before the jury. Should, however, Defendant decide to withhold Esplin as a witness, Ms. Giuffre would like to use limited parts of his testimony at trial.

Of course, Defendant can hardly claim any sort of unfair prejudice from having testimony from her own expert witness presented at trial. Defendant also argues that the designated

excerpts are somehow beyond the scope of Esplin's expertise. Ms. Giuffre will address this concern at the appropriate time in the appropriate pleading which deals with relevance issues.

**II. EPSTEIN, ██████████ AND ESPLIN SHOULD ALL BE ALLOWED TO TESTIFY VIA DEPOSITION TESTIMONY.**

Defendant next objects to testimony from Jeffrey Epstein, ██████████ and Philip Esplin, claiming that they all "refused to respond to questions." Mot. at 5. Contrary to Defendant's argument, all three of the witnesses did, in fact, answer questions and provide useful information. Epstein answered questions by invoking his Fifth Amendment right against self-incrimination. ██████████ answered questions after her recollection about certain events was refreshed. And Esplin answered questions in which he testified favorably for Ms. Giuffre, which led to Ms. Giuffre designating certain parts of his deposition for use at trial. Accordingly, Defendant's arguments lack merit with respect to all three of these witnesses and her motion should be denied.

**A. Jeffrey Epstein.**

Jeffrey Epstein is a pivotally important witness in this case. Ms. Giuffre should be permitted to call him, either live or via deposition, to have him invoke his Fifth Amendment right to refuse to answer pivotal questions in this case. The jury should then, in its discretion, be permitted to draw such adverse inferences as may be appropriate.

This procedure is very clearly recognized in the leading case of *LiButti v. United States*, 107 F.3d 110, 121 (2d Cir. 1997). *LiButti* articulated several non-exclusive factors to be considered, in light of the circumstances of the case, which should guide a district court in making a determination about whether to allow the jury to hear a Fifth Amendment invocation. *LiButti*, 107 F.3d at 123–24. The Second Circuit emphasized, however, that whether these or other circumstances unique to a particular case are considered by the trial court, "the overarching

concern is fundamentally *whether the adverse inference is trustworthy under all of the circumstances and will advance the search for the truth.*” *Id.* at 124 (emphasis added). A number of subsequent decisions from the Southern District of New York have allowed evidence of a third party’s invocations to be used against a party in litigation. *See, e.g., Amusement Indus., Inc. v. Stern*, No. 07CIV11586LAKGWG, 2016 WL 4249965, at \*8 (S.D.N.Y. Aug. 11, 2016) (drawing negative inference against defendant based on key witness’ invocation of privilege); *S.E.C. v. Durante*, No. 01 CIV. 9056 DAB AJP, 2013 WL 6800226, at \*11 (S.D.N.Y. Dec. 19, 2013) (drawing negative inference when Fifth Amendment invoked by a “prominent figure in the case”), *report and recommendation adopted*, No. 01 CIV. 9056 DAB, 2014 WL 5041843 (S.D.N.Y. Sept. 25, 2014), *aff’d*, 641 F. App’x 73 (2d Cir. 2016); *John Paul Mitchell Sys. v. Quality King Distributors, Inc.*, 106 F. Supp. 2d 462, 471 (S.D.N.Y. 2000) (drawing inference from invocation and noting alignment of interests).

All of the *LiButti* factors tip in favor of allowing Ms. Giuffre to call Epstein. Ms. Giuffre has analyzed this issue at length in her contemporaneously filed Motion to Present Testimony from Jeffrey Epstein for Purposes of Obtaining an Adverse Inference. To avoid burdening the Court with duplicative briefing, Ms. Giuffre specifically adopts and incorporates by reference all of the briefing and arguments in that motion in the response here. For all of the reasons given in that motion, Ms. Giuffre should be allowed to call Epstein. Accordingly, Defendant’s motion to exclude Epstein should be denied.

To be clear, as part of calling Epstein, Ms. Giuffre has no objection to the jury being given appropriate cautionary instructions about the adverse inferences. Those instructions should make clear that the jury is not required to draw any inference at all from Epstein’s invocations, and that it should only draw inferences if it finds that there is an independent foundation for the



question being asked and independent corroboration for the adverse inference being drawn. The jury can also be instructed that it should draw such an inference only where, in light of all the other evidence presented at trial, the inference “is trustworthy under all of the circumstances.” *LiButti*, 107 F.3d at 124. The Defendant may also request additional cautionary instructions, and the Court (after hearing from Ms. Giuffre) may determine to give such cautionary instructions. But the best course of action is to allow a properly-instructed jury to consider Epstein’s invocations, along with all of the other evidence in the case, to reach a fair decision.

Finally, it is important to recognize that the Court has before it very specifically designated excerpts from Epstein’s deposition transcript. While Ms. Giuffre intends to call Mr. Epstein live at trial, the Court can review each deposition excerpt to insure that the inference that might be drawn would be appropriate. The Court can then instruct Ms. Giuffre’s counsel to ask only those specific questions that it approves. This approval process provides an additional safeguard against unfair prejudice.

*LiButti* specifically recognizes that “[s]ilence is often evidence of the most persuasive character.” 107 F.3d at 124 (*quoting United States ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 153-54 (1923) (Brandeis, J.)). Ms. Giuffre should be allowed to present that persuasive evidence here.

**B. [REDACTED] Deposition Should Be Allowed.**

Defendant next challenges testimony from one of Epstein’s victims, [REDACTED] who was very similarly situated to Ms. Giuffre. The basis for this meritless argument is that, according to Defendant, [REDACTED] has “little or no memory of most or all of the events surrounding the time she knew Mr. Epstein.” Mot. at 12.

This is a misleading summary of the testimony provided by [REDACTED]. During her deposition, [REDACTED] explained that when she was about 16 years of age, she was brought to

Epstein's mansion under the guise of providing him with a massage. She was then led up to his bedroom, where Epstein sexually abused her in the same ways that Ms. Giuffre was also sexually abused. To be sure, because this happened a number of years ago, [REDACTED] will unsurprisingly not be able to recall every tiny detail of her sexual abuse. But such lapses in memory are simply fodder for cross-examination. They do not provide any basis for excluding her testimony in its entirety. See Fed. R. Evid. 601 (providing presumption of competency to testify); see, e.g., *United States v. Sinclair*, 109 F.3d 1527, 1536-37 (10th Cir. 1997) (even being "very strung out" on morning of events did not disqualify witness from testifying).

Defendant also raises technical objections to aspects of [REDACTED] testimony. In doing so, Defendant simply repeats objections that she has already lodged at [REDACTED] testimony in her separate pleading on that subject. Ms. Giuffre will respond in detail to those objections in a dedicated pleading, but a few general responses are appropriate herein.

Defendant seems to argue that Rule 612, Federal Rules of Evidence, somehow requires the exclusion of this evidence. Yet Rule 612 is not a rule of exclusion, but simply a rule of procedure that gives an adverse party the right to examine a writing used to refresh a witness's memory. Defendant does not claim that Ms. Giuffre's counsel in any way violated Rule 612, so it is not clear what her argument is for exclusion under that rule.

Defendant also makes reference to the Palm Beach police report, which details Epstein's sexual abuse of many young girls. With respect to claims that aspects of [REDACTED] testimony simply read into evidence passages from the police report, those specific objections will be dealt with in Ms. Giuffre's specific responses to Defendant's objections to the testimony. Such objections concern only a tiny fraction of [REDACTED] testimony, most of which involves recounting Epstein's sexual abuse.

With regard to Defendant's general objections that the Palm Beach Police Report is inadmissible hearsay, her claim that it is simply inadmissible is clearly overbroad. The Court will need to address any objection to admission of the police report in the context of the particular occasion in which it arises. For example, Defendant's own expert – Dr. Esplin – has apparently reviewed the police report as part of his testimony. Presumably, this is because he believes that under Rule 703 the report is the kind of information that experts in this area need to rely upon.

More broadly, the Palm Beach police report, which was properly used to try and refresh [REDACTED] recollection during her deposition, may be admitted at trial for multiple reasons. To begin with, the report may be admissible for various non-hearsay purposes – e.g., admissible because it would not be admitted for the truth of any matters asserted in the report. For instance, Defendant has indicated that she was aware of the police report. Accordingly, the report may be admissible - *not to show that its contents are true* - but to show Defendant's state of mind – specifically that when Defendant called Ms. Giuffre a liar, she not only knew, she herself had abused Ms. Giuffre, she was doing so knowing that the Palm Beach Police Department had found that dozens of girls in circumstances similar to Ms. Giuffre's had been abused. Moreover, the report may come in to show Defendant's strong ties to Epstein – i.e., that after she knew, by way of the police report, that he had sexually abused several dozen minor girls, she continued to associate with him.

Beyond that, the report may be properly admissible under exceptions to the hearsay rule. For example, it seems likely to qualify for admission under Rule 804(8) as a public record for an investigating government agency. Or, if for any reason it fails to fit Rule 804(8), it would be admissible under Rule 807, the residual hearsay clause.

Nevertheless, the Court need not resolve these evidentiary issues here, in a motion to exclude testimony by [REDACTED]. Instead, the Court should assess these issues either at trial or pre-trial if a motion in limine is filed.

**C. Esplin’s Deposition Should Be Allowed if Defendant Decides Not to Make Him Available at Trial.**

Defendant also argues that Ms. Giuffre should not be permitted to designate extremely helpful testimony provided by Defendant’s own expert, Dr. Esplin. While Defendant is apparently fine with Esplin’s opinions that are helpful to her case, she claims that portions of his testimony that happen to be favorable to Ms. Giuffre are “outside the scope of his opinion.” This pick-and-choose approach is not permitted, and Defendant is required to take the bitter with the sweet. Ms. Giuffre has properly designated portions of Esplin’s deposition which are helpful to her and within the scope of his expertise. For example, Defendant offered Esplin as an expert on memory issues, and Ms. Giuffre is entitled to ask for his opinions concerning various memory issues in this case. Ms. Giuffre will respond specifically to Defendant’s argument at greater length in response to his objections to her designation.

**III. ALFREDO RODRIGUEZ’S TESTIMONY IN AN EARLIER DEPOSITION SHOULD BE ALLOWED SINCE HE HAS SINCE DIED.**

Ms. Giuffre has designated excerpts from a deposition of Alfredo Rodriguez, conducted in July 2009. Mr. Rodriguez worked inside Epstein’s Palm Beach mansion, and therefore had intimate details about how girls were being sexually trafficked by Epstein and Defendant. Ms. Giuffre would call Mr. Rodriguez as a witness at trial, but he has since died. Accordingly, the only way that his testimony can be presented to the jury is through the deposition transcript.

Mr. Rodriguez’s previously-taken deposition testimony is admissible for two reasons. First, the testimony is admissible under Fed. R. Evid. 804(b)(1), as Mr. Rodriguez is unavailable and he is Defendant’s predecessor in interest – her co-conspirator, Jeffrey Epstein – had an

opportunity to cross-examine Mr. Rodriguez earlier. Second, even if for some technical reason Mr. Rodriguez's deposition does not meet the requirements of Rule 804(b)(1), his testimony is clearly trustworthy and should be admitted under the residual hearsay provision of the Federal Rules of Evidence, Rule 806.

**A. Mr. Rodriguez's Deposition Testimony is Admissible Under Fed. R. Evid. 804(b)(1).**

While Defendant has challenged virtually everything else in this case, she does not challenge that Mr. Rodriguez, who is dead, is an "unavailable" witness at the trial. Defendant does, however, contend that his previously-taken testimony must be excluded because it is, in her view, "inadmissible" under Fed. R. Civ. P. 32. Defendant claims that Rule 32 sets out the "prerequisite[s] to use of a deposition at trial." Mot. at 14. But, in fact, Rule 32 is not the only way to admit a prior deposition. The Federal Rules of Evidence also contain provisions allowing the use of a prior deposition. In fact, although not cited in Defendant's motion, Fed. R. Civ. P. 32(a)(8) specifically provides: "A deposition previously taken may also be used as allowed by the Federal Rules of Evidence." This provision was specifically added to the Rules of Civil Procedure because, as the Advisory Committee Notes explain, "the Federal Rules of Evidence permit a broader use of depositions previously taken under certain circumstances." Adv. Comm. Notes, Fed. R. Civ. P. 32, 1980 Amendments.

The relevant provision of the Federal Rules of Evidence is Rule 804(b)(1). Prior deposition testimony of an unavailable witness (such as Mr. Rodriguez) is admissible so long as it meets these requirements:

- (1) *Former Testimony*. Testimony that:
  - (A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and
  - (B) is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

Defendant obviously cannot dispute that the requirements of item (A) are met, since Mr. Rodriguez's former testimony was given in a deposition.

The only remaining issue for admissibility concerns item (B), which allows use, in a civil case, of a deposition so long as the party (in this case, the Defendant) had a "predecessor in interest" who had "an opportunity and similar motive" to develop the testimony through cross-examination. The earlier deposition was taken in the case of *Jane Doe No. 6 v. Jeffrey Epstein*, Case No. 08-CV-80994, on August 7, 2009, as well as other civil cases brought by other victims of Epstein. *See* McCawley Dec. at Exhibit 3, Rodriguez Dep. Tr. at 271.

As the case caption itself makes clear, Defendant had a "predecessor in interest" in the case – namely, her co-conspirator, Jeffrey Epstein. To determine whether there is a predecessor in interest, the courts look to whether there was a "community of interest" between the two persons. *See Lloyd v. American Export Lines, Inc.*, 580 F.2d 1179, 1185-87 (3d Cir. 1978). In making such determinations, courts should give a "realistically generous" interpretation that presents a "complete picture" of the situation. *Id.* at 1187. For example, both the Coast Guard and a seaman were found to have the same interest in asking questions about an incident at sea. *Id.*

Similarly here, Epstein and Defendant had the same interest in asking questions about the sex abuse taking place in the Palm Beach mansion they cohabitated for years. At the deposition in question, Epstein was represented by legal counsel, Robert Critton, Esq. *Id.* at 275. Following questioning from counsel for Epstein's victims that suggested Mr. Rodriguez had seen evidence of sexual abuse going on in Epstein's mansion, Critton cross-examined Mr. Rodriguez. *See id.* at 338-419. Critton specifically asked an entire series of questions about Defendant. *See id.* at 364-

69, 375-76, 416-17. Indeed, several of the passages that Ms. Giuffre has designated for use in this trial come from questions asked of Mr. Rodriguez by Epstein's counsel.

Epstein also had a similar motive to ask questions during the deposition. Under Rule 804(b)(1), "'similar motive' does not mean 'identical motive.'" *United States v. Salerno*, 505 U.S. 317, 326 (Blackmun, J., concurring). Determining whether a motive is sufficiently similar is a "factual inquiry, depending in part on the similarity of the underlying issues and on the context." *Id.* "A motive to develop testimony is sufficiently similar for purposes of Rule 804(b)(1) when the party now opposing the testimony would have had, at the time the testimony was given, an interest of substantially similar intensity to prove (or disprove) the same side of a substantially similar issue now before the court." *United States v. Carneglia*, 256 F.R.D. 366, 372 (E.D.N.Y. 2009) (internal quotations omitted).

Here, Epstein's motive and Defendant's motive are the same – to deny that sexual abuse occurred. Both the victims in that case – and Ms. Giuffre here – are alleging that Epstein and Defendant worked together to sexually abuse minor girls. Epstein asked numerous questions designed to undercut those aspects of Mr. Rodriguez's deposition that could be used to support such claim. His motive was identical to Defendant's, and Mr. Rodriguez's deposition transcript should accordingly be presented to the jury. Rule 804 "expresses preferences: testimony given on the stand in person is preferred over hearsay, and hearsay, if of the specified quality, is preferred over complete loss of the evidence of the declarant." *Lloyd*, 580 F.2d at 1185. The jury should not suffer "complete loss" of the evidence of Mr. Rodriguez.

**B. If the Rodriguez Deposition is Not Admissible Under the Former Testimony Exception, It Should Be Admitted Under the Residual Hearsay Exception.**

For all the reasons just explained, Mr. Rodriguez's deposition testimony falls within the former testimony exception to the hearsay rule. However, if for any reason the court concludes that the

testimony does not fall within that exception, the question would at least be a close one. In such “near miss” situations, the residual hearsay exception provided in Federal Rule of Evidence 807 comes into play. *See United States v. Valdez-Soto*, 31 F.3d 1467, 1472 (9th Cir. 1994) (almost fitting another exception cuts in favor of admitting).

To qualify for admission of a statement under the residual hearsay clause, four factors must apply, as explained in Rule 807:

- (1) the statement has equivalent circumstantial guarantees of trustworthiness;
- (2) it is offered as evidence of a material fact;
- (3) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and
- (4) admitting it will best serve the purposes of these rules and the interests of justice.

Each of the four factors applies here.

First, Mr. Rodriguez’s statements have equivalent circumstantial guarantees of trustworthiness. The “determination of equivalent trustworthiness is completely fact driven.” *Brookover v. Mary Hitchcock Mem’l Hosp.*, 893 F.2d 411, 420 (1st Cir. 1990). Here, the facts make clear that Mr. Rodriguez’s statements were trustworthy. As someone who was inside the Palm Beach mansion, he would have had every reason to minimize any illegal activities going on there. Indeed, to the extent that he was acknowledging sexual abuse of children, Mr. Rodriguez was making a statement against penal interest because of the duty to report such abuse. It is also relevant that he gave his statements under oath and was cross-examined by Epstein’s attorney, who had a quite similar motive to Defendant’s (as explained *supra*). All of these facts give Mr. Rodriguez’s statements equivalent guarantees of trustworthiness.

Second, Mr. Rodriguez’s statements are being offered as evidence of material facts. For example, one of the important issues in this case concerns whether Defendant was involved with child pornography or photographs of girls. Mr. Rodriguez’s testimony will explain that he saw



such pictures on Defendant's computer. *See* McCawley Dec. at Exhibit 3, Rodriguez Dep. Tr. at 321-22, 371-73. Another important issue is Defendant's involvement in the arranging for the girls to come to Epstein's mansion for provide sexual massages. Here again, Mr. Rodriguez's deposition provides direct testimony regarding Defendant's involvement. *See id.* at 302-03, 366-69.

Third, Mr. Rodriguez's testimony is more probative on the points for which it is offered than any other evidence that Ms. Giuffre can obtain through reasonable efforts. As the Court is aware, Ms. Giuffre has alleged that she was a victim of a sex trafficking organization run by Epstein, with the assistance of Defendant. Ms. Giuffre has attempted to secure testimony from persons in the organization, starting with Epstein. He took the Fifth on all substantive questions. Then Defendant suffered from convenient memory lapses about critical events and times. Moving down one more echelon in the organization, Ms. Giuffre took the depositions of Sarah Kellan and Nadia Marcinkova. Again, they both took the Fifth on all substantive questions. In stark contrast, Mr. Rodriguez was more than willing to testify. He had a regular job inside Epstein's Palm Beach mansion and is thus able to provide testimony about what was occurring there during the critical 2005 time period, when girls who were later interviewed by the Palm Beach Police Department were brought there by Defendant to provide sexual massages for Epstein. Ms. Giuffre has diligently sought out other witnesses, but no other witnesses she can call can provide the testimony that Mr. Rodriguez will provide.

Finally, admitting Mr. Rodriguez's testimony will best serve the purposes of these rules and the interests of justice. The purposes of the Rules of Evidence prominently include "ascertaining the truth and securing a just result." Fed. R. Evid. 102. This Court is well aware of the bitter roadblocks that Defendant has been throwing out to impede testimony about what was

going on inside the Epstein mansion while she lived there. If Mr. Rodriguez had not passed away a few years ago, he would have been deposed in this case and presented as a witness to the jury. The happenstance of his death should not deprive Ms. Giuffre of the opportunity to allow the jury hear what he has to say.

The residual hearsay rule also concerns procedural requirements of prior notice. Ms. Giuffre has already alerted Defendant of her intent to use this testimony and has provided formal notice that complies with the rule. *See* Ms. Giuffre's Notice of Intent to Offer Statements Under, if Necessary, the Residual Hearsay Clause (DE 601) filed Feb. 9, 2017.

Accordingly, both the substantive and procedural requirements for admitting excerpts of Mr. Rodriguez's deposition have been satisfied, and the excerpts should be presented to the jury.

### **CONCLUSION**

For all of the foregoing reasons, Ms. Giuffre respectfully requests that the Court deny Defendant's motion in limine to exclude *in toto* deposition testimony from certain witnesses, except that Ms. Giuffre intends to present Jeffrey Epstein and Rinaldo Rizzo via live testimony. Similarly, if Defendant calls Dr. Esplin, Ms. Giuffre will present his testimony via cross-examination.

Dated: February 10, 2017

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10th day of February, 2017, 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 this day on the individuals identified below via transmission of Notices of Electronic Filing generated by CM/ECF.

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/s/ Sigrid S. McCawley  
Sigrid S. McCawley

**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 RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION IN LIMINE  
TO EXCLUDE IN TOTO CERTAIN DEPOSITIONS DESIGNATED BY PLAINTIFF  
FOR USE AT TRIAL**

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 Response in Opposition to Defendant's Motion in Limine to Exclude in Toto Certain Deposition Designated by Plaintiff for Use at Trial.

3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of February 9, 2017, Correspondence from Jack Goldberger.

4. Attached hereto as Sealed Exhibit 2 is a true and correct copy of February 8, 2017, Affidavit of Anna Intriago.

5. Attached hereto as Sealed Exhibit 3 is a true and correct copy of Excerpt from August 8, 2009, Deposition of Alfredo Rodriguez.

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

/s/ Sigrid McCawley  
Sigrid McCawley, Esq.

Dated: February 10, 2017.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Sigrid McCawley

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/s/ Sigrid McCawley  
Sigrid McCawley



**EXHIBIT 3**  
**(File Under Seal)**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA

3 JANE DOE NO. 2, CASE NO: 08-CV-80119  
4 Plaintiff,  
5 Vs.  
6 JEFFREY EPSTEIN,  
7 Defendant.  
\_\_\_\_\_ /

8 JANE DOE NO. 3, CASE NO: 08-CV-80232  
9 Plaintiff,  
10 Vs.

**CONDENSED**

11 JEFFREY EPSTEIN,  
12 Defendant.  
13 \_\_\_\_\_ /

14 JANE DOE NO. 4, CASE NO: 08-CV-80380  
15 Plaintiff,

16 Vs.  
17 JEFFREY EPSTEIN,  
18 Defendant.  
19 \_\_\_\_\_ /

20 JANE DOE NO. 5, CASE NO: 08-CV-80381  
21 Plaintiff,

22 Vs  
23 JEFFREY EPSTEIN,  
24 Defendant.  
25 \_\_\_\_\_ /

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <p style="text-align: right;">Page 271</p> <p>1 JANE DOE NO. 6, CASE NO: 08-CV-80994<br/>2 Plaintiff,<br/>3 Vs.<br/>4 JEFFREY EPSTEIN,<br/>5 Defendant.</p> <hr/> <p>6 JANE DOE NO. 7, CASE NO: 08-CV-80993<br/>7 Plaintiff,<br/>8 Vs.<br/>9 JEFFREY EPSTEIN,<br/>10 Defendant.</p> <hr/> <p>11 C.M.A., CASE NO: 08-CV-80811<br/>12 Plaintiff,<br/>13 Vs.<br/>14 JEFFREY EPSTEIN,<br/>15 Defendant.</p> <hr/> <p>16 JANE DOE, CASE NO: 08-CV-80893<br/>17 Plaintiff,<br/>18 Vs.<br/>19 JEFFREY EPSTEIN,<br/>20 Defendant.</p> <hr/> <p>21<br/>22<br/>23<br/>24<br/>25</p> | <p style="text-align: right;">Page 273</p> <p>1 IN THE CIRCUIT COURT OF THE 15TH<br/>2 JUDICIAL CIRCUIT IN AND FOR<br/>3 PALM BEACH COUNTY, FLORIDA<br/>4 CASE NO. 502008CA037319XXXMB AB</p> <p>5 B.B.,<br/>6 Plaintiff,<br/>7 Vs.<br/>8 JEFFREY EPSTEIN.<br/>9 Defendant.</p> <hr/> <p>10<br/>11<br/>12 1031 Ives Dairy Road<br/>13 Suite 228<br/>14 North Miami, Florida<br/>15 August 7, 2009<br/>16 1:15 p.m. to 5:30 p.m.</p> <p>17 CONTINUED<br/>18 VIDEOTAPED<br/>19 DEPOSITION<br/>20 of<br/>21 ALFREDO RODRIGUEZ</p> <p>22 taken on behalf of the Plaintiffs pursuant<br/>23 to a Re-Notice of Taking Continued Videotaped<br/>24 Deposition (Duces Tecum)<br/>25 - - -</p>                                                                                                                                                                                                                     |
| <p style="text-align: right;">Page 272</p> <p>1 JANE DOE NO. II, CASE NO: 08-CV-80469<br/>2 Plaintiff,<br/>3 Vs.<br/>4 JEFFREY EPSTEIN,<br/>5 Defendant.</p> <hr/> <p>6 JANE DOE NO. 101 CASE NO: 08-CV-80591<br/>7 Plaintiff,<br/>8 Vs.<br/>9 JEFFREY EPSTEIN,<br/>10 Defendant.</p> <hr/> <p>11 JANE DOE NO. 102, CASE NO: 08-CV-80656<br/>12 Plaintiff,<br/>13 Vs.<br/>14 JEFFREY EPSTEIN,<br/>15 Defendant.</p> <hr/> <p>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>                                                                        | <p style="text-align: right;">Page 274</p> <p>1 APPEARANCES:<br/>2<br/>3 MERMELSTEIN &amp; HOROWITZ, P.A.<br/>4 BY: ADAM HOROWITZ, ESQ.<br/>5 18205 Biscayne Boulevard<br/>6 Suite 2218<br/>7 Miami, Florida 33160<br/>8 Attorney for Jane Doe 2, 3, 4, 5,<br/>9 6, and 7.</p> <p>10 ROTHSTEIN ROSENFELDT ADLER<br/>11 BY: BRAD J. EDWARDS, ESQ., and<br/>12 CARA HOLMES, ESQ.<br/>13 Las Olas City Centre<br/>14 Suite 1650<br/>15 401 East Las Olas Boulevard<br/>16 Fort Lauderdale, Florida 33301<br/>17 Attorney for Jane Doe and E.W.<br/>18 And L.M.</p> <p>19 PODHURST ORSECK<br/>20 BY: KATHERINE W. EZELL, ESQ.<br/>21 25 West Flagler Street<br/>22 Suite 800<br/>23 Miami, Florida 33130<br/>24 Attorney for Jane Doe 101 and 102.</p> <p>25 LEOPOLD-KUVIN<br/>BY: ADAM J. LANGINO, ESQ.<br/>2925 PGA Boulevard<br/>Suite 200<br/>Palm Beach Gardens, Florida 33410<br/>Attorney for B.B.</p> |

2 (Pages 271 to 274)

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| <p style="text-align: right;">Page 299</p> <p>1 A. I don't remember, Ma'am. He came from<br/>2 New Albany, Ohio.<br/>3 Q. From New --<br/>4 A. New Albany, Ohio.<br/>5 Q. New Albany, Ohio. Did he have his own<br/>6 business?<br/>7 A. No, he worked for Mr. Epstein. He will<br/>8 maintain all the computers.<br/>9 Q. Was he there everyday?<br/>10 A. No, ma'am.<br/>11 Q. Do you know whether at that time Mr.<br/>12 Epstein had an office in Palm Beach?<br/>13 A. Not outside the house, no.<br/>14 Q. Do you have any knowledge of whether or<br/>15 not the video equipment was -- and I don't know<br/>16 the technical term, forgive me, but was it the<br/>17 kind of equipment that would record for a certain<br/>18 amount of time and then record over that film?<br/>19 A. I don't know.<br/>20 MR. CRITTON: Form.<br/>21 BY MS. EZELL:<br/>22 Q. You don't know?<br/>23 A. No, ma'am.<br/>24 MR. CRITTON: Just for clarification, I<br/>25 may have misunderstood, but I thought he</p>                                                                                                 | <p style="text-align: right;">Page 301</p> <p>1 video, even phones.<br/>2 Q. Would he also repair the televisions if<br/>3 they needed work?<br/>4 A. No.<br/>5 Q. No. Did you have any kind of intercom<br/>6 system in the house?<br/>7 A. Yes, ma'am.<br/>8 Q. And what kind of system was that?<br/>9 A. It was standard office equipment, Lucid<br/>10 Technologies maybe, but it was an intercom like we<br/>11 using right now.<br/>12 MS. EZELL: Just let the record reflect<br/>13 that the witness pointed to the telephone on<br/>14 the table that has a speaker phone.<br/>15 THE WITNESS: Yes, ma'am.<br/>16 BY MS. EZELL:<br/>17 Q. And did you use that in your work?<br/>18 A. Yes, ma'am.<br/>19 Q. And what did you use it for?<br/>20 A. Mr. Epstein used to page me when he<br/>21 needed me.<br/>22 Q. Did you have one of those phones in the<br/>23 kitchen?<br/>24 A. Yes, ma'am.<br/>25 Q. And was there one out in the staff house</p>                           |
| <p style="text-align: right;">Page 300</p> <p>1 said he didn't even know the video equipment<br/>2 existed until he read the FBI report.<br/>3 MS. EZELL: He said he didn't know that<br/>4 it was upstairs and downstairs, I believe.<br/>5 MR. CRITTON: I thought he said he didn't<br/>6 know that it even existed.<br/>7 MS. EZELL: I may be wrong.<br/>8 BY MS. EZELL:<br/>9 Q. Did you know it existed before you read<br/>10 the FBI report?<br/>11 A. No, ma'am.<br/>12 Q. I'm sorry, then I was wrong.<br/>13 How did you know then that the young<br/>14 technician from Ohio maintained the computers and<br/>15 the video equipment?<br/>16 A. Because we used to request -- there were<br/>17 always problems with the computers so he came to<br/>18 the house and he was the programmer. It was very<br/>19 sophisticated.<br/>20 MR. CRITTON: Form to the last question,<br/>21 move to strike the answer as nonresponsive.<br/>22 BY MS. EZELL:<br/>23 Q. How did you know then that he maintained<br/>24 the video equipment as well?<br/>25 A. Because he was in charge of computers,</p> | <p style="text-align: right;">Page 302</p> <p>1 as well?<br/>2 A. Yes, ma'am.<br/>3 Q. Do you know where others were in the<br/>4 house?<br/>5 A. Probably have like 15 phones. We used to<br/>6 have three in the staff house, one in the cabana,<br/>7 two in the master bedroom, one in each room,<br/>8 kitchen, dining room, Mrs. Maxwell's office, the<br/>9 garage.<br/>10 Q. Where was Mrs. Maxwell's office?<br/>11 A. Under the stairs next to the kitchen.<br/>12 Q. Can you give me some idea of what size<br/>13 space that was?<br/>14 A. It was probably -- we change the floor.<br/>15 Twelve by five, something like that.<br/>16 Q. And was the computer equipment in that<br/>17 space?<br/>18 A. Yes, ma'am.<br/>19 Q. Do you know whether Ms. Maxwell kept the<br/>20 names and telephone numbers of the girls who came<br/>21 to do massages?<br/>22 A. Yes, ma'am.<br/>23 MR. CRITTON: Form.<br/>24 BY MS. EZELL:<br/>25 Q. Do you know that because you saw the</p> |

9 (Pages 299 to 302)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 303</p> <p>1 names and phone numbers?<br/>                 2 MR. CRITTON: Form.<br/>                 3 THE WITNESS: Yes, ma'am.<br/>                 4 BY MS. EZELL:<br/>                 5 Q. Do you know if she kept pictures of the<br/>                 6 girls on the computer?<br/>                 7 A. Yes, she did.<br/>                 8 Q. And you know that as well because you<br/>                 9 happen to see them?<br/>                 10 A. Yes, ma'am.<br/>                 11 MR. CRITTON: Form to the last two<br/>                 12 questions.<br/>                 13 BY MS. EZELL:<br/>                 14 Q. Were they similar to the pictures that<br/>                 15 Ms. Kellen had on her computer?<br/>                 16 MR. CRITTON: Form.<br/>                 17 THE WITNESS: Yes, ma'am.<br/>                 18 BY MS. EZELL:<br/>                 19 Q. Did the pictures that they kept there<br/>                 20 look like pictures that were posed?<br/>                 21 A. They were more casual.<br/>                 22 Q. Did they look as though the person being<br/>                 23 photographed knew that they were being<br/>                 24 photographed?<br/>                 25 MR. CRITTON: Form.</p>                                                                                                                                                                                                                                                                                   | <p style="text-align: right;">Page 305</p> <p>1 computer?<br/>                 2 MR. CRITTON: Form.<br/>                 3 THE WITNESS: Yes, ma'am.<br/>                 4 BY MS. EZELL:<br/>                 5 Q. And did she generally have phone numbers<br/>                 6 for those girls?<br/>                 7 A. Yes, ma'am.<br/>                 8 Q. And were they generally pictures of the<br/>                 9 girls?<br/>                 10 MR. CRITTON: Form.<br/>                 11 THE WITNESS: No, ma'am.<br/>                 12 BY MS. EZELL:<br/>                 13 Q. And did Ms. Maxwell have a list of the<br/>                 14 girls who came to give massages?<br/>                 15 MR. CRITTON: Form.<br/>                 16 THE WITNESS: Yes, ma'am.<br/>                 17 BY MS. EZELL:<br/>                 18 Q. Did she have telephone numbers generally?<br/>                 19 A. Yes, ma'am.<br/>                 20 MR. CRITTON: Form.<br/>                 21 BY MS. EZELL:<br/>                 22 Q. Were there pictures on her computer of<br/>                 23 the girls who came to give massages?<br/>                 24 MR. CRITTON: Form.<br/>                 25 BY MS. EZELL:</p>                                                                                                                                                                                    |
| <p style="text-align: right;">Page 304</p> <p>1 THE WITNESS: No, ma'am.<br/>                 2 BY MS. EZELL:<br/>                 3 Q. And what can you tell me about that, what<br/>                 4 lead you to draw that conclusion?<br/>                 5 A. They were probably taken in parties in<br/>                 6 big reception or banquet.<br/>                 7 MR. CRITTON: Let me offer as a<br/>                 8 suggestion, not that you have to accept or<br/>                 9 that you would, you're using the term young<br/>                 10 girls generically, he has probably seen<br/>                 11 many, many young girls, there was no --<br/>                 12 you've used it interchangeably with just<br/>                 13 young girls versus young girls who may have<br/>                 14 come to -- purported to give a massage and,<br/>                 15 therefore, that may be a different answer,<br/>                 16 so that's part of my form objection.<br/>                 17 MS. EZELL: Okay, thank you.<br/>                 18 BY MS. EZELL:<br/>                 19 Q. When I asked you about Ms. Kellen whether<br/>                 20 she had a list of the girls and telephone numbers,<br/>                 21 I think I asked about those girls that came to<br/>                 22 give massages, but let me go back and just ask it<br/>                 23 that way.<br/>                 24 Did you notice that Ms. Kellen had a list<br/>                 25 of the girls that came to give massages on her</p> | <p style="text-align: right;">Page 306</p> <p>1 Q. Ms. Maxwell I'm talking about.<br/>                 2 A. Yes, ma'am.<br/>                 3 Q. And were those pictures the more casual<br/>                 4 ones that you described when I asked whether or<br/>                 5 not the subject looked as though she knew she was<br/>                 6 being photographed?<br/>                 7 MR. CRITTON: Form.<br/>                 8 THE WITNESS: I'm sorry, can you repeat?<br/>                 9 BY MS. EZELL:<br/>                 10 Q. Yeah. The pictures of the young girls<br/>                 11 who came to the house to give massages that were<br/>                 12 on Ms. Maxwell's computer, did they appear to have<br/>                 13 been taken when the girls knew they were being<br/>                 14 photographed?<br/>                 15 MR. CRITTON: Form.<br/>                 16 THE WITNESS: I don't think they knew<br/>                 17 they were being photographed.<br/>                 18 BY MS. EZELL:<br/>                 19 Q. I believe you said they were more casual<br/>                 20 pictures.<br/>                 21 A. Yes, ma'am.<br/>                 22 Q. Did you notice any nude photographs in<br/>                 23 those pictures?<br/>                 24 A. Yes, ma'am.<br/>                 25 MR. CRITTON: Form for the last question.</p> |

10 (Pages 303 to 306)

Page 335

1 Q. Do you remember whether she came to the  
 2 house on more than one occasion?  
 3 A. I heard her name several times from  
 4 Sarah, sir, but beyond that I cannot say anything  
 5 else.  
 6 Q. Okay. Who have you talked to about your  
 7 knowledge of Mr. Epstein in the last year?  
 8 A. My wife.  
 9 Q. Anyone else?  
 10 A. No, sir.  
 11 Q. Well, you talked to Mr. Critton.  
 12 A. We have a conversation in West Palm  
 13 Beach.  
 14 Q. Yes. So you talked to your wife, you  
 15 talked to Mr. Critton?  
 16 A. Yes.  
 17 Q. Had you talked to anyone else in the last  
 18 year about Epstein?  
 19 A. No.  
 20 Q. Did you talk to Mr. Goldberger?  
 21 A. Yeah, I called Mr. Goldberger first  
 22 before I talked to Mr. Critton.  
 23 Q. Okay. So we have your wife, we have Mr.  
 24 Critton, and we have Mr. Goldberger.  
 25 Do we have anyone else that you talked to

Page 336

1 in the last year?  
 2 A. No, sir.  
 3 Q. How about Mr. Epstein of course?  
 4 A. No.  
 5 Q. Where did you usually keep the journal  
 6 with the names of the girls, in what part of the  
 7 house?  
 8 A. In the staff house.  
 9 Q. Sorry?  
 10 A. The staff house, the guest house.  
 11 Q. Right. But you said you had a journal at  
 12 your own residence with the names of the girls.  
 13 A. I give the whole journal and all the  
 14 information regarding this case, sir, to Detective  
 15 Joe Recarey, sir.  
 16 Q. Okay. And the materials that you gave to  
 17 the Detective, were they kept -- were any of them  
 18 kept at your own personal residence?  
 19 A. Yes, they were with me, sir.  
 20 Q. Okay. When you gave the materials to the  
 21 Detective, did all of the materials you gave to  
 22 him come from your residence?  
 23 A. Yes.  
 24 Q. Do you remember exactly what you gave to  
 25 him?

Page 337

1 A. I give him a list of notes that I used to  
 2 take from frequent people -- I mean, people who  
 3 used to frequent the house and -- I'm sorry, it's  
 4 been a few years, I don't remember, but it was  
 5 those years, like it was a file with my personal  
 6 notes because he told me it was very important and  
 7 he kind of said can I borrow this from you, and he  
 8 still has those documents, sir.  
 9 Q. So even though they pertain to Mr.  
 10 Epstein you kept those notes at your residence?  
 11 A. Yes, sir.  
 12 Q. Okay. Where in your residence did you  
 13 keep those notes before you gave them to the  
 14 Detective?  
 15 A. In my bedroom.  
 16 Q. Did you have a file cabinet or --  
 17 A. No.  
 18 Q. -- chester drawers or something?  
 19 A. No, they were laying next to some other  
 20 papers that I have.  
 21 Q. Did the other papers pertain to Mr.  
 22 Epstein?  
 23 A. No, no, nothing else related to Mr.  
 24 Epstein.  
 25 Q. I'm just confused as to why you told us

Page 338

1 before that you had a journal at home and today  
 2 you say that you gave everything to the Detective.  
 3 MR. CRITTON: Form. You also may have  
 4 missed a portion of his earlier testimony if  
 5 you couldn't hear something, but go ahead.  
 6 MR. WILLITS: Most likely.  
 7 THE WITNESS: What I said was I thought I  
 8 had some information, and then I look with  
 9 my daughter and we couldn't find anything,  
 10 and I remember now that I put everything in  
 11 the file that I give to Detective Recarey.  
 12 BY MR. WILLITS:  
 13 Q. Did anyone help you assemble those papers  
 14 to give to the Detective?  
 15 A. No, sir.  
 16 MR. WILLITS: I don't have any other  
 17 questions.  
 18 CROSS EXAMINATION  
 19 BY MR. CRITTON:  
 20 Q. Mr. Rodriguez, my name is Bob Critton and  
 21 I represent Mr. Epstein as you're aware, I have a  
 22 few questions for you.  
 23 What I would like to remind you at the  
 24 start of this is if you know something, tell us,  
 25 if you don't know something tell us that.

18 (Pages 335 to 338)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 339</p> <p>1 You're not required to speculate, you're<br/>                 2 not required to guess, you're not required to<br/>                 3 assume because some lawyers ask you a leading<br/>                 4 question or suggested in a report or like the<br/>                 5 police report like Mr. Mermelstein and Mr. Edwards<br/>                 6 did, that did you tell the police officers X, Y,<br/>                 7 or Z without showing you the statement. You're<br/>                 8 not required to guess, I want personal knowledge,<br/>                 9 not speculation. Do you understand?<br/>                 10 A. Yes, I do.<br/>                 11 Q. All right. Now, when Mr. Edwards and --<br/>                 12 Mr. Horowitz is here today for Mr. Mermelstein,<br/>                 13 but you remember a lawyer asked you some questions<br/>                 14 last time you were here?<br/>                 15 A. Yes.<br/>                 16 Q. That is he started and he went on for a<br/>                 17 few hours. Do you recall that?<br/>                 18 A. Yes, I remember.<br/>                 19 Q. He asked you do you remember telling the<br/>                 20 police officer Y, X, or Z.<br/>                 21 Do you remember that? Do you remember<br/>                 22 that's how he phrased his question?<br/>                 23 A. Yes, yes.<br/>                 24 Q. He never showed you a statement that you<br/>                 25 made to the police department; did he?</p> | <p style="text-align: right;">Page 341</p> <p>1 marked up, no, you can't.<br/>                 2 MR. CRITTON: I just want to show him.<br/>                 3 Thank you, Cathy.<br/>                 4 BY MR. CRITTON:<br/>                 5 Q. This is the first what Ms. Ezell was kind<br/>                 6 enough to provide is the first part of your<br/>                 7 deposition, it was transcribed by the court<br/>                 8 reporter and provided by all counsel.<br/>                 9 Do you understand that?<br/>                 10 A. Yes, I understand that.<br/>                 11 Q. And no one has provided that to you yet<br/>                 12 today; have they?<br/>                 13 A. No.<br/>                 14 Q. Now, I think you told us that with the<br/>                 15 police officers you gave a taped statement.<br/>                 16 Did I understand you correctly?<br/>                 17 A. Yes.<br/>                 18 Q. And the only conversation that you had<br/>                 19 with the police officers, and it may have been a<br/>                 20 state attorney, it was somebody named Ms. Weiss<br/>                 21 who I think was referenced in the questions, the<br/>                 22 only time that you talked with at least Officer<br/>                 23 Recarey and the State Attorney's Office from Palm<br/>                 24 Beach County was in a taped statement.<br/>                 25 Is that correct?</p> |
| <p style="text-align: right;">Page 340</p> <p>1 A. I'm sorry?<br/>                 2 Q. He didn't show you a document that said,<br/>                 3 question, you know, what is your name; answer, my<br/>                 4 name is Alfredo Rodriguez --<br/>                 5 MR. WILLITS: Object to the form of the<br/>                 6 question.<br/>                 7 MR. CRITTON: You need to let me finish<br/>                 8 it first.<br/>                 9 MR. WILLITS: I'm sorry, I thought you<br/>                 10 were.<br/>                 11 BY MR. CRITTON:<br/>                 12 Q. He never showed you a statement of what<br/>                 13 the question was and the answer that you gave.<br/>                 14 True?<br/>                 15 MR. WILLITS: Object to the form of the<br/>                 16 question.<br/>                 17 THE WITNESS: I don't exactly understand<br/>                 18 your question.<br/>                 19 BY MR. CRITTON:<br/>                 20 Q. Do you know what a deposition is?<br/>                 21 A. Yes, I am.<br/>                 22 Q. That's what you're doing here.<br/>                 23 MR. CRITTON: Could I borrow your<br/>                 24 deposition for just a minute?<br/>                 25 MR. HOROWITZ: The transcript? It's</p>                                                                                                                                                                                                                                                   | <p style="text-align: right;">Page 342</p> <p>1 A. No.<br/>                 2 Q. Did you talk with them separate and apart<br/>                 3 from that?<br/>                 4 A. Yes, I did.<br/>                 5 Q. Okay. Did they tape that statement?<br/>                 6 A. No.<br/>                 7 Q. You told us you also spoke with<br/>                 8 representatives of the FBI?<br/>                 9 A. Yes.<br/>                 10 Q. Okay. And you distinguished between the<br/>                 11 FBI and between Officer Recarey?<br/>                 12 A. Yes.<br/>                 13 Q. So how many times did Officer Recarey, or<br/>                 14 Detective Recarey, I think he's from the Palm<br/>                 15 Beach Police Department speak with you?<br/>                 16 A. Like three or four times.<br/>                 17 Q. But he only took one statement?<br/>                 18 A. One taped.<br/>                 19 Q. I'm sorry, one taped statement?<br/>                 20 A. Yes.<br/>                 21 Q. All right. So as to whether or not if<br/>                 22 you said something to Officer Recarey or not that<br/>                 23 you would be able to confirm, that would only have<br/>                 24 been in a taped statement, one taped statement out<br/>                 25 of the three, approximately three times he spoke</p>                                                                                    |

19 (Pages 339 to 342)

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Page 343

1 with you.  
 2 MR. EDWARDS: Form.  
 3 MR. HOROWITZ: Form.  
 4 BY MR. CRITTON:  
 5 Q. Is that correct?  
 6 A. Yes, correct.  
 7 MR. WILLITS: Object to the form.  
 8 MR. HOROWITZ: Join.  
 9 BY MR. CRITTON:  
 10 Q. And when we were here, I think it was  
 11 last week or the last ten days anyway -- I could  
 12 tell you. On July 29th of this year, and Mr.  
 13 Mermelstein started with your deposition and then  
 14 others asked questions, when Mr. Mermelstein and I  
 15 think Mr. Edwards asked questions about did you  
 16 tell Officer Recarey X, Y, or Z, they didn't show  
 17 you a statement, they didn't give you like a  
 18 transcript like this and say see what the question  
 19 and see what the answer is?  
 20 A. No.  
 21 MR. EDWARDS: Form.  
 22 MR. WILLITS: Object to the form of the  
 23 question.  
 24 BY MR. CRITTON:  
 25 Q. And you haven't had an opportunity to see

Page 344

1 your taped statement since you gave it many years  
 2 ago?  
 3 A. No, sir.  
 4 Q. Would you agree that your taped statement  
 5 would probably be a little more accurate than your  
 6 testimony today because of the time period that  
 7 has transpired?  
 8 A. That's correct.  
 9 MR. HOROWITZ: Object to the form.  
 10 MR. WILLITS: Object to the form of the  
 11 question.  
 12 BY MR. CRITTON:  
 13 Q. When you spoke with the FBI over at  
 14 Greens -- I think it was Greens Pharmacy?  
 15 A. Yes.  
 16 Q. Did they take a statement from you, that

17 is, did they have a tape recorder or did they just  
 18 make notes?  
 19 A. They took notes.  
 20 Q. All right. Did you sign anything?  
 21 A. No, sir.  
 22 Q. That is like did they take notes of what  
 23 you said and then you signed it to say yep, that  
 24 accurately reflects what I said?  
 25 A. No, I didn't sign anything.

Page 345

1 Q. When Officer Recarey took -- spoke with  
 2 you on those approximately two times when he did  
 3 not take a taped statement, did he ever present  
 4 anything for you, anything in writing that he had  
 5 written to say, Mr. Rodriguez, I would like you to  
 6 review this to make certain that I took down  
 7 correctly what you said?  
 8 A. No, sir.  
 9 Q. If he had offered to do that would you  
 10 have read what he wrote down to determine whether  
 11 or not he took down that which you had said or  
 12 told him?  
 13 MR. EDWARDS: Object to the form.  
 14 THE WITNESS: Probably I will read it  
 15 first.  
 16 BY MR. CRITTON:  
 17 Q. All right. And if in fact he had  
 18 recorded something incorrectly or recorded in a  
 19 particular way that he wanted it phrased and it  
 20 was not accurate, would you have told him that?  
 21 MR. EDWARDS: Object to the form.  
 22 THE WITNESS: No, I never told him that.  
 23 BY MR. CRITTON:  
 24 Q. Listen to my question.  
 25 If he, Officer Recarey, had taken down

Page 346

1 what you said and it was not accurate, that is, he  
 2 put his interpretation of what you said, would you  
 3 have told him that's not accurate, Officer  
 4 Recarey?  
 5 MR. HOROWITZ: Form.  
 6 MR. EDWARDS: Object to the form.  
 7 THE WITNESS: I will tell him.  
 8 MR. CRITTON: Go ahead and change. We're  
 9 going to change the tape. We do have time.  
 10 Cathy, could I borrow back the  
 11 photographs, please?  
 12 While you're giving me those back, would  
 13 it be correct that you're going to keep --  
 14 you took as you did with photograph  
 15 number four you took back five, six, seven,  
 16 and eight, and you're going to keep those

17 and not allow me or anyone else to have a  
 18 copy of them?  
 19 MS. EZELL: Yes.  
 20 MR. CRITTON: You're going to be equally  
 21 restrictive; right?  
 22 MS. EZELL: Right.  
 23 MR. CRITTON: All right. Thank you.  
 24 BY MR. CRITTON:  
 25 Q. You were shown photograph five of a lady,

20 (Pages 343 to 346)



Page 347

1 F.E., and I think you told us that you had seen  
 2 her, you recognized her photograph.  
 3 A. Yes, I did.  
 4 Q. On how many occasions did you ever see  
 5 her at the Epstein home?  
 6 A. More than three times.  
 7 Q. More than three?  
 8 A. Yes, sir.  
 9 Q. That's as accurate as you can be?  
 10 A. Yes.  
 11 Q. More than three?  
 12 A. More than three.  
 13 Q. Whether it was four or five you don't  
 14 know, but more than three?  
 15 A. More than three, sir.  
 16 Q. In terms of F.E.'s age, did you ever ask  
 17 her what her age was?  
 18 A. No, sir.  
 19 Q. Did she appear to you to be someone at  
 20 least from seeing her and recalling her that she  
 21 appeared at least to you to be while a young woman  
 22 appeared to be someone who was 18 or older?  
 23 A. No, sir.  
 24 Q. Okay. Well, did you ever say anything to  
 25 the police or did you ever -- were you ever

Page 348

1 concerned about that such that you told someone?  
 2 A. No, sir.  
 3 Q. Haven't you told the police, sir -- let  
 4 me strike that, let me ask it this way.  
 5 In your taped statement that you gave to  
 6 the police did you not tell them that all of the  
 7 girls appeared to you to be 18 or above?  
 8 A. Sir, as far as when all these actions  
 9 that were taking place I was under an environment  
 10 that I thought I was going to be -- in other  
 11 words, I was afraid of any reprisal Mr. Epstein  
 12 and Mrs. Maxwell if I say something that is any  
 13 idea of me because I have this confidentiality  
 14 agreement. What I saw that they were very young,  
 15 but I cannot say that they were 18 and old.  
 16 Q. Right. Let me just take you back to my

17 question again and see if you can answer my  
 18 question.  
 19 MR. CRITTON: Could you please read it  
 20 back?  
 21 (Thereupon, a portion of the record was  
 22 read by the reporter.)  
 23 THE WITNESS: I think I told the police  
 24 that.  
 25 BY MR. CRITTON:

Page 349

1 Q. I'm sorry?  
 2 A. Yes, I did, I told the police.  
 3 Q. And at the time that you spoke with the  
 4 police and gave them a statement, isn't it true,  
 5 Mr. Rodriguez, that you were no longer employed by  
 6 Mr. Epstein?  
 7 A. Yes.  
 8 Q. And you understood that you were required  
 9 to tell the police officers the truth at that  
 10 time?  
 11 A. Yes.  
 12 Q. And if I understood your testimony I  
 13 believe from July 29th through today, you at no  
 14 time asked any of these girls how old they were.  
 15 True?  
 16 A. No.  
 17 Q. And as to whether the girls were under 18  
 18 or 18 or over 18, you really didn't know one way  
 19 or the other at the time. Would that be a fair  
 20 statement?  
 21 A. Yes.  
 22 MR. WILLITS: Object to the form of the  
 23 question.  
 24 BY MR. CRITTON:  
 25 Q. On Exhibit 6 there is a person who's

Page 350

1 covered, the lady that Ms. Ezell asked you about I  
 2 believe was on the right-hand side of the  
 3 photograph. There is a young lady on the  
 4 left-hand side with a black hat on.  
 5 Do you recognize her at all?  
 6 A. No, I don't recognize her.  
 7 Q. Okay. Thank you. With regard to the  
 8 photograph four that you saw that you think  
 9 possibly might be [REDACTED] I think you told us that  
 10 you recall seeing that woman in the sauna at Mr.  
 11 Epstein's house on one occasion and she was naked.  
 12 A. Yes.  
 13 Q. Was that near the end of your employment  
 14 or the middle or the front end?  
 15 A. I saw her on January 2005, sir, and I was  
 16 terminated in March, so that was two months prior.

17 Q. And did you ever tell anyone that you had  
 18 seen her naked in the sauna?  
 19 A. I told Louella.  
 20 Q. Okay. And what did Louella say?  
 21 A. She was surprised.  
 22 Q. Okay. Did you wake the young lady up in  
 23 the sauna?  
 24 A. No.  
 25 Q. And do you know how old the young lady

Page 351

1 was at that time?  
 2 A. No, I didn't know.  
 3 Q. If I was to tell you she was born in  
 4 December of '86 which would have made her 18 at  
 5 the time, and you would say, not surprised?  
 6 MS. EZELL: Objection, form.  
 7 MR. WILLITS: Object to the form of the  
 8 question.  
 9 MR. HOROWITZ: Join.  
 10 THE WITNESS: I would say I wouldn't  
 11 know.  
 12 BY MR. CRITTON:  
 13 Q. Other than telling Louella did you say  
 14 anything to anyone else when you saw [REDACTED], the  
 15 lady you believe was [REDACTED] naked in the sauna?  
 16 A. I believe I mentioned that to my wife.  
 17 Q. All right. Anyone else?  
 18 A. No.  
 19 Q. And did [REDACTED] continue -- assuming it was  
 20 [REDACTED], did she continue to sleep in the sauna, that  
 21 is, she didn't know you were there?  
 22 A. She never knew that I was there.  
 23 Q. She didn't at least acknowledge that she  
 24 knew. Correct?  
 25 A. Yes, correct.

Page 352

1 Q. You were asked by Ms. Ezell -- I'm just  
 2 going to cover a couple of things as long as I'm  
 3 staying with Cathy here -- whether Louella, you  
 4 had told us something about the picture of the  
 5 Pope near a picture of a naked person, naked  
 6 woman. That's what Louella told you, you never  
 7 saw those photos. Correct?  
 8 A. I did see the pictures.  
 9 Q. You did see the pictures?  
 10 A. Yes.  
 11 Q. And the photos that you saw of the naked  
 12 woman that was near the Pope's photograph, was  
 13 that someone that you knew or just a picture of a  
 14 naked woman?  
 15 A. It was somebody -- somebody that was a  
 16 visitor in the house, but I don't know her name.

17 Q. And the visitors, that would have been  
 18 one of the plane women, you described the women  
 19 who came in on planes, or that they came with Mr.  
 20 Epstein from time to time?  
 21 A. They came with Mr. Epstein from time to  
 22 time.  
 23 Q. All right. And those are women that I  
 24 think you testified at your last deposition all  
 25 appeared to be in their 20's or older. Is that

Page 353

1 correct?  
 2 A. I think so, sir.  
 3 Q. All right. I assume that in over the  
 4 course of your life separate and apart from your  
 5 wife you've seen a naked woman before.  
 6 A. Yes.  
 7 Q. And I assume that in your 50 some odd  
 8 years -- how old are you, sir?  
 9 A. 55.  
 10 Q. In your 55 years you've seen pictures of  
 11 naked women both photographs, paintings, statues.  
 12 Would that be a fair statement?  
 13 A. Yes.  
 14 Q. And in terms of at least in this  
 15 particular case there is all sorts of -- as you  
 16 know there is testimony, and you've been asked a  
 17 number of questions about sex related issues, that  
 18 is whether you saw in photographs or whether you  
 19 saw anyone engaged in any type of sexual activity.  
 20 Correct?  
 21 A. Correct.  
 22 Q. And I assume that you understand that men  
 23 and women -- we'll start there first, that men and  
 24 women actually do have sex in this world?  
 25 A. Yes.

Page 354

1 Q. That comes as no grand surprise to you?  
 2 A. No.  
 3 Q. And you understand that people actually  
 4 enjoy sex from time to time?  
 5 A. Yes.  
 6 Q. Are you familiar with that concept at  
 7 least?  
 8 A. Yes.  
 9 Q. All right. And what may be typical  
 10 sexual activity for one man and woman, or whatever  
 11 the permutation might be, another couple, or  
 12 another man and woman, or another man or woman may  
 13 consider to be unusual or overly aggressive.  
 14 MS. EZELL: Objection to form.  
 15 BY MR. CRITTON:  
 16 Q. True?

17 A. It depends on your point of view.  
 18 Q. That's what I mean. Everyone has a  
 19 different point of view about sex and what may be  
 20 considered typical sexual activity for someone,  
 21 someone else may consider that's a bit  
 22 adventurous?  
 23 MR. EDWARDS: Object to the form.  
 24 THE WITNESS: Yes.  
 25 BY MR. CRITTON:

22 (Pages 351 to 354)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 355</p> <p>1 Q. I'm not trying to make you a sex expert.<br/>                 2 Also, I assume that when you've been in<br/>                 3 CVS or Walgreens, for that matter Publix or Winn<br/>                 4 Dixie I assume that you've -- I don't want to<br/>                 5 assume anything.<br/>                 6 Have you ever been in an aisle where<br/>                 7 you've actually seen condoms being sold?<br/>                 8 A. Yes.<br/>                 9 Q. And where lubricants are being sold?<br/>                 10 A. Yes.<br/>                 11 Q. And as well as massage oils and other<br/>                 12 types of oils actually are sold in those kinds of<br/>                 13 stores?<br/>                 14 A. Yes.<br/>                 15 Q. And they're available so that someone<br/>                 16 walking through Walgreens or Publix or CVS could<br/>                 17 actually take it off the shelf, put it in their<br/>                 18 cart, go up and pay for it and take it home?<br/>                 19 A. Yes.<br/>                 20 Q. All right. In the photographs that you<br/>                 21 talked about, and if I understood you correctly,<br/>                 22 at least during the time that you were there, Mr.<br/>                 23 Rodriguez, in '04 and '05 there were -- you said<br/>                 24 that there were -- I think you said downstairs --<br/>                 25 and I'm talking about really from the kitchen area</p> | <p style="text-align: right;">Page 357</p> <p>1 you say her name?<br/>                 2 A. Yes, her mother.<br/>                 3 Q. Okay. It's Eva's daughter, there was a<br/>                 4 picture where someone it looked like was pulling<br/>                 5 on their swimsuit?<br/>                 6 A. Yes.<br/>                 7 Q. Do you recall ever seeing the old<br/>                 8 Coppertone --<br/>                 9 A. Yes.<br/>                 10 Q. Let me ask the question. I know you know<br/>                 11 what this is.<br/>                 12 Have you ever seen the old Coppertone<br/>                 13 commercials and billboards that used to be<br/>                 14 plastered all over certainly Florida and other<br/>                 15 places where there is a cute little girl who<br/>                 16 appears to be two, three, four years old and<br/>                 17 someone is pulling down at least a portion of her<br/>                 18 swimsuit so she's exposing a small portion of her<br/>                 19 cheek is exposed?<br/>                 20 A. Yes.<br/>                 21 Q. Okay. Is that what the picture of the<br/>                 22 young girl looked like that is Mr. Epstein's God<br/>                 23 daughter?<br/>                 24 A. More or less, yes.<br/>                 25 Q. All right. And downstairs in the kitchen</p> |
| <p style="text-align: right;">Page 356</p> <p>1 up the back stairway, or what would be the kitchen<br/>                 2 stairway to the upper floor, there was I think you<br/>                 3 said, but correct me if I'm wrong, please, that<br/>                 4 you don't recall seeing there being any pictures<br/>                 5 or photographs of any nude women. Is that<br/>                 6 correct?<br/>                 7 A. They were not nude women in the<br/>                 8 staircase.<br/>                 9 Q. That's all I'm talking about right now.<br/>                 10 In that area you never saw any pictures, or<br/>                 11 photographs, paintings, any type of depiction of a<br/>                 12 nude woman on that staircase going upstairs.<br/>                 13 Correct?<br/>                 14 A. Correct.<br/>                 15 Q. All right. And I think you said<br/>                 16 downstairs you saw a picture of -- the only<br/>                 17 picture that you saw of I'd say of a younger child<br/>                 18 that displayed some form of -- I don't want to say<br/>                 19 nudity because it's probably not that, but of some<br/>                 20 portion of their body that was exposed, and I<br/>                 21 think you described it as her cheek.<br/>                 22 A. Yes, that's upstairs.<br/>                 23 Q. That's upstairs?<br/>                 24 A. Upstairs.<br/>                 25 Q. And that was -- was it Eva; is that how</p>    | <p style="text-align: right;">Page 358</p> <p>1 were there any pictures of women in any stage of<br/>                 2 undress?<br/>                 3 A. No.<br/>                 4 Q. And then I think you said as you walk<br/>                 5 upstairs, or as you walked up the stairway from<br/>                 6 the kitchen at the top of the landing, I think you<br/>                 7 described -- did you describe it as the foyer?<br/>                 8 A. Yes.<br/>                 9 Q. Okay. But it's really the landing, the<br/>                 10 upstairs landing?<br/>                 11 A. Yes.<br/>                 12 Q. I think you said there were -- there was<br/>                 13 -- were or was a three by five picture or<br/>                 14 pictures?<br/>                 15 A. Yes.<br/>                 16 Q. Of women in some stage of undress?<br/>                 17 A. Yes.<br/>                 18 Q. Okay. And when you say three by five, I<br/>                 19 assume you meant three feet?<br/>                 20 A. Three feet.<br/>                 21 Q. By five feet?<br/>                 22 A. Yes.<br/>                 23 Q. Were they photographs?<br/>                 24 A. Yes, they were photographs.<br/>                 25 Q. And I think you also told us that you</p>                                                                                                |

23 (Pages 355 to 358)

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Page 359

1 didn't recognize who those people were. Is that  
 2 correct?  
 3 MR. EDWARDS: Object to the form.  
 4 THE WITNESS: I knew this particular girl  
 5 because it was the daughter of Mrs. Eva.  
 6 BY MR. CRITTON:  
 7 Q. Okay. And is that the picture you're  
 8 talking about?  
 9 A. This is the picture I'm talking about.  
 10 Q. Okay. And that was a three by five?  
 11 A. Yes.  
 12 Q. All right. And the only thing that you  
 13 could see was a portion, that is of her other than  
 14 say her waist or her shoulders or her arms or  
 15 something, that's one where you could see kind of  
 16 like the Coppertone commercial, a picture of her  
 17 cheek?  
 18 A. Yes. Part of her buttocks.  
 19 MR. LANGINO: Object to the form.  
 20 BY MR. CRITTON:  
 21 Q. Okay. And was there another picture at  
 22 the top of the foyer, large one, or is that the  
 23 only one that you can recall?  
 24 A. There were two of the same girl in  
 25 different poses.

Page 360

1 Q. But showed the same thing?  
 2 A. Yes.  
 3 Q. Okay. As you walked through into -- then  
 4 if I understood it correctly, you go to the pretty  
 5 much to the end of the hallway, then you go  
 6 through another small vestibule, double doors, two  
 7 sets of double doors, and as you go straight ahead  
 8 then you make a left around the bed and then you  
 9 end up in the bathroom.  
 10 A. Yes.  
 11 Q. In the bathroom -- in the bathroom or in  
 12 that location were there any pictures of any women  
 13 in any stage of undress?  
 14 A. Yes.  
 15 Q. All right. And were any of those  
 16 pictures, did they involve -- or were they of any

17 of the girls that have been described as women who  
 18 came over to give Mr. -- purportedly to give Mr.  
 19 Epstein a massage?  
 20 A. Yes.  
 21 Q. And do you remember who any of the names  
 22 of any of those people were?  
 23 A. No.  
 24 Q. And the pictures you saw, where were they  
 25 located?

Page 361

1 A. Inside his closet, the walk-in closet.  
 2 Q. And those pictures, I think you called it  
 3 a mosaic?  
 4 A. Yes.  
 5 Q. And of the mosaic, approximately how many  
 6 pictures were in the mosaic?  
 7 A. 16 or 20.  
 8 Q. Okay. And of those pictures how many did  
 9 you recognize?  
 10 A. About three or four.  
 11 Q. All right. Were they -- as to who those  
 12 people were, you don't know, you just recognized  
 13 three or four of them?  
 14 A. Mr. Epstein when he was younger, and then  
 15 different girlfriends, but I didn't recognize  
 16 except the ones --  
 17 Q. Okay. You said three or four of those  
 18 were pictures of the girls who came over to give a  
 19 massage?  
 20 A. Yes.  
 21 Q. Okay. But as to who those girls were you  
 22 don't know as you sit here today?  
 23 A. No, sir.  
 24 Q. And as to what their ages were you don't  
 25 know?

Page 362

1 A. No, sir.  
 2 Q. That's correct?  
 3 A. That's correct.  
 4 Q. And as to what they depicted in the  
 5 photographs of the girls were they in different  
 6 stages of undress?  
 7 A. Yes.  
 8 Q. Was everyone undressed to some degree,  
 9 that is, they were described as nude, or at least  
 10 the questions asked were these people nude? Were  
 11 they actually nude or someone may have had their  
 12 top off?  
 13 A. There were two girls completely naked in  
 14 a shower in a sexual act.  
 15 Q. Is that the one when Ms. Ezell asked you  
 16 questions, that's one of the photographs that you

17 were talking about?  
 18 A. No, sir.  
 19 Q. That was a different --  
 20 A. Different one.  
 21 Q. Okay. And the mosaic that you saw where  
 22 you saw two girls involved in a sexual act, do you  
 23 know where that photograph was taken?  
 24 A. I think it was taken in one of the rooms  
 25 in the house because there is an oval bathtub, but

24 (Pages 359 to 362)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 363</p> <p>1 I don't know which room, sir.<br/>                 2 Q. Okay. Did you recognize both the girls<br/>                 3 or just one of the girls?<br/>                 4 A. The two girls.<br/>                 5 Q. Then there were -- there was one or two<br/>                 6 other photographs of girls that you recognized?<br/>                 7 A. Yes.<br/>                 8 Q. Okay. And were they fully unclothed or<br/>                 9 did they have some degree of clothes on and/or<br/>                 10 off?<br/>                 11 A. They were naked.<br/>                 12 Q. All right. And all of the remaining<br/>                 13 pictures at least within that mosaic were of<br/>                 14 individuals that you did not know?<br/>                 15 A. No, sir.<br/>                 16 Q. And that you did not recognize as having<br/>                 17 been at the house. Is that correct?<br/>                 18 A. Yes, that's correct.<br/>                 19 Q. You were also asked about some -- let me<br/>                 20 switch for just a minute.<br/>                 21 You were asked about a vibrator that you<br/>                 22 saw, and I think you described it as a back<br/>                 23 massager that was approximately 18 inches long<br/>                 24 that had a couple of rotating heads on it.<br/>                 25 A. Yes.</p>                                | <p style="text-align: right;">Page 365</p> <p>1 pilots, masseuses, chefs, so she have a copy of<br/>                 2 the black book with herself and as well as the<br/>                 3 computer.<br/>                 4 Q. Did you ever go on Ms. Maxwell's computer<br/>                 5 to see what she had in it?<br/>                 6 A. Yes.<br/>                 7 Q. And was that something you were allowed<br/>                 8 to do?<br/>                 9 A. No.<br/>                 10 Q. Okay. You actually went in her office?<br/>                 11 A. Yes.<br/>                 12 Q. And was her computer on so that you<br/>                 13 didn't need to access the password?<br/>                 14 A. It was off.<br/>                 15 Q. Okay. So you just turned it on?<br/>                 16 A. Yes, sir.<br/>                 17 Q. And then you were able to access her<br/>                 18 computer?<br/>                 19 A. Exactly.<br/>                 20 Q. And what possessed you to go in and to<br/>                 21 access her personal computer?<br/>                 22 A. I needed to send some documents to the<br/>                 23 New York office and it was the only computer<br/>                 24 working in the house.<br/>                 25 Q. Okay. And how many occasions did you use</p> |
| <p style="text-align: right;">Page 364</p> <p>1 Q. And I think you ultimately came up with<br/>                 2 the idea as it was something you had seen at like<br/>                 3 a Sharper Image store.<br/>                 4 A. Yes, sir.<br/>                 5 Q. Have you ever seen one of those types of<br/>                 6 devices, that is a back massager with the rotating<br/>                 7 heads also sold -- well, let me ask you this.<br/>                 8 Strike that last question.<br/>                 9 Have you ever been to Brookstone?<br/>                 10 A. Yes.<br/>                 11 Q. Okay. Have you ever seen a massager like<br/>                 12 that at Brookstone?<br/>                 13 A. Yes.<br/>                 14 Q. Okay. You were asked whether Ms. Maxwell<br/>                 15 kept the names of any of the girls who came to<br/>                 16 give massages on -- let me ask it this way.<br/>                 17 I think you were asked whether<br/>                 18 Ms. Maxwell ever kept the names of any of the<br/>                 19 girls who came to give massages and I think your<br/>                 20 response was yes.<br/>                 21 A. Yes.<br/>                 22 Q. Okay. Did she keep them on a pad of<br/>                 23 paper, did she keep them in a notebook, did she<br/>                 24 keep them in a computer?<br/>                 25 A. We used to have internal books for</p> | <p style="text-align: right;">Page 366</p> <p>1 her computer?<br/>                 2 A. Several times.<br/>                 3 Q. Was she ever aware that you used her<br/>                 4 computer?<br/>                 5 MR. LANGINO: Form.<br/>                 6 THE WITNESS: I don't think so.<br/>                 7 BY MR. CRITTON:<br/>                 8 Q. Did you ever ask Ms. Maxwell for<br/>                 9 permission to use her computer?<br/>                 10 A. I was the house manager, I believe I was<br/>                 11 supposed to use everything in the house to<br/>                 12 accomplish my duties, in that case sending<br/>                 13 financial reports or e-mails.<br/>                 14 Q. So would you have been -- did you ever<br/>                 15 use Mr. Epstein's computer?<br/>                 16 A. No.<br/>                 17 Q. Okay. But you used Ms. Maxwell's<br/>                 18 computer?<br/>                 19 A. Yes.<br/>                 20 Q. Did you ever use Ms. Kellen's computer?<br/>                 21 A. Yes.<br/>                 22 Q. In looking at Ms. Maxwell still, you went<br/>                 23 into Ms. Maxwell's computer with at least the idea<br/>                 24 of sending some documents?<br/>                 25 A. Yes.</p>                             |

25 (Pages 363 to 366)

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Page 367

1 Q. Up to New York?  
 2 A. Yes.  
 3 Q. Were you going to pdf them?  
 4 A. Yes.  
 5 Q. And did she have a fax machine -- not a  
 6 fax machine, a copy machine in her office as well?  
 7 A. Yes.  
 8 Q. Okay. So how would you generally do  
 9 that? Would you do that through a Microsoft  
 10 program?  
 11 A. Through Citrix.  
 12 Q. Through Citrix. All right. With Citrix,  
 13 and that is, if you said you saw some names of  
 14 individuals on her computer if you were just going  
 15 to pdf some documents up to New York why would you  
 16 of -- what would of caused you to have seen any  
 17 names on her computer?  
 18 MS. EZELL: Objection to form.  
 19 THE WITNESS: All the calls that came to  
 20 358 El Brillo, they came through the  
 21 telephone, they have a transcript somehow  
 22 that they connect to the computer, so you  
 23 can pull it and you register the time, who  
 24 called, who didn't call, and you can pull  
 25 this at your request. So I used to use that

Page 368

1 to go back to some calls that they were  
 2 requesting, especially when the hurricane  
 3 season happened.  
 4 BY MR. CRITTON:  
 5 Q. Okay. So if I understand, even the  
 6 computer you used would have had that same  
 7 feature?  
 8 A. No, no, it was totally different. Mine  
 9 was slower and all the time was breaking down  
 10 that's why we have the guy from Ohio came and  
 11 fixed the computers.  
 12 Q. Okay. Were there other computers that  
 13 you used that had that feature, that is that --  
 14 A. Only Sarah, Mrs. Maxwell, and the staff  
 15 house.  
 16 Q. Staff house being yours?

17 A. The guest house, yes, my office.  
 18 Q. So you could go out to your guest house  
 19 then and look for the same information?  
 20 A. No.  
 21 Q. All right. I don't understand but why  
 22 don't we take a break because we're almost out of  
 23 tape.  
 24 (Thereupon, a recess was had.)  
 25 THE VIDEOGRAPHER: We're back on the

Page 369

1 record with tape number three.  
 2 BY MR. CRITTON:  
 3 Q. Mr. Rodriguez, I was asking you about  
 4 Ms. Maxwell's computer and you told me how you  
 5 went on the computer.  
 6 If she was out of town would she take her  
 7 computer with her?  
 8 A. No.  
 9 Q. It was something she left there?  
 10 A. Yes.  
 11 Q. All right. And when you went on to pdf,  
 12 I think you said it was really one time that you  
 13 saw the names of some of these girls?  
 14 A. Yes.  
 15 Q. And if I understand it correctly, it was  
 16 -- did it have the name and then a phone number?  
 17 A. Yes.  
 18 Q. And was that something that was  
 19 automatically downloaded from the system?  
 20 A. Yeah, from the phone system to the  
 21 computer so we have a transcript.  
 22 Q. When you say a transcript, the fact that  
 23 Sally Jones, phone number 561, whatever it was,  
 24 called.  
 25 A. It was a transcript of the phone calls of

Page 370

1 the house, we can get it from the computer.  
 2 Q. Okay. And I'm distinguishing,  
 3 transcript, it would tell you the name and phone  
 4 number, it wouldn't tell you what was said?  
 5 A. It was the message also.  
 6 Q. Okay. Now I understand. And so  
 7 Ms. Maxwell when you said she had the names of  
 8 some of these girls who may have given massages,  
 9 or at least were what you called earlier girls  
 10 that gave massages, or females that gave massages,  
 11 she would have had it because that was information  
 12 that was downloaded from the Citrix system into  
 13 her computer?  
 14 A. Yes.  
 15 MS. EZELL: Objection, form.  
 16 BY MR. CRITTON:

17 Q. Okay, I understand. Now, you said she  
 18 also had some pictures. Is that that one time you  
 19 also saw pictures?  
 20 A. Yes.  
 21 Q. And were you going through her computer  
 22 at that time?  
 23 A. No.  
 24 Q. The question is, if all you were going to  
 25 do was try to pdf some financial information to

Page 371

1 New York what were you doing getting to names and  
 2 phone numbers and then pictures of girls?  
 3 A. I was trying to get some information. I  
 4 was working the computer and I just happen -- they  
 5 have the icon of the file and I open and it was  
 6 right there, so I was not looking but, you know,  
 7 it was already accessible to me.  
 8 Q. And how many photographs did you then  
 9 scroll through to look at?  
 10 A. Probably 30.  
 11 Q. Okay. And why?  
 12 A. Just curiosity, sir.  
 13 Q. So again, you never told anyone other  
 14 than your wife?  
 15 A. No.  
 16 Q. Correct?  
 17 A. Yes, correct.  
 18 Q. Of the pictures that you saw, if I  
 19 understood it correctly, some of those were  
 20 pictures of -- well, I think you said some of them  
 21 reflected parties or banquets?  
 22 A. Yes.  
 23 Q. I think you described some of the  
 24 pictures gatherings that appeared to be either in  
 25 Russia or Eastern Europe?

Page 372

1 A. Yes.  
 2 Q. All right. And then you talked about a  
 3 picture of two girls in the shower that you didn't  
 4 know the girls. Correct?  
 5 A. Yes.  
 6 Q. That's correct?  
 7 A. That's correct.  
 8 Q. All right. And that in all of the  
 9 photographs that you saw the individuals seemed to  
 10 be having a good time?  
 11 A. Yes.  
 12 Q. All right. Would it be a correct  
 13 statement that in none of the photographs did  
 14 anyone seem to be distressed or disturbed or show  
 15 any type of negative emotion, at least from what  
 16 you observed?

17 A. That's correct.  
 18 MS. EZELL: Objection, form.  
 19 BY MR. CRITTON:  
 20 Q. And in terms of the photographs that you  
 21 did see, were any of the photographs that you saw,  
 22 did they appear -- did they appear to have been of  
 23 women that you had seen fly in with Mr. Epstein on  
 24 his plane?  
 25 A. Yes.

Page 373

1 Q. Okay. Were any of the photographs that  
 2 were in -- again, I'm talking about Ms. Maxwell's  
 3 computer now, were those photographs of  
 4 individuals who were any of the girls or ladies  
 5 that came over to give massages?  
 6 A. No. They stay at the house.  
 7 Q. Okay. So the photographs that you saw on  
 8 Ms. Maxwell's computer of females in any state of  
 9 undress or at parties or at banquets, those were  
 10 all of individuals who would fly in with Mr.  
 11 Epstein at various periods of time that had  
 12 traveled with him?  
 13 A. That's correct.  
 14 Q. Okay. Those are the girls that you told  
 15 us I think at your last deposition and reaffirmed  
 16 here today, those girls all appeared to be in  
 17 their 20's?  
 18 A. Yes, sir.  
 19 Q. All right. Now, you were also asked some  
 20 questions, a lot of questions about surveillance.  
 21 And if I understood your testimony, and this is  
 22 where it goes back to what do you know, what don't  
 23 you know, what were you speculating on, what did  
 24 you know at the time, what do you know now, at  
 25 least I need you to distinguish that for me so

Page 374

1 that I know what you knew at the time, and as  
 2 distinct from what you may have read in the  
 3 newspaper or been told by some lawyer or someone  
 4 else that may not be accurate. Okay?  
 5 A. Yes, sir.  
 6 Q. With regard to the -- with regard to  
 7 surveillance equipment, if I understood your  
 8 testimony today is you were completely unaware of  
 9 the existence of any surveillance equipment in the  
 10 house during the 2004/2005 time period that you  
 11 worked there. Is that correct?  
 12 A. Yes.  
 13 Q. And therefore, where it was, what may  
 14 have existed, whether it in fact actually did  
 15 exist, whether anyone maintained it, you have no  
 16 personal knowledge whatsoever. Is that true?

17 A. That's true.  
 18 MR. WILLITS: Object to the form.  
 19 BY MR. CRITTON:  
 20 Q. You talked about pictures of two women  
 21 who you saw in the house who were nude, one was  
 22 Nadia?  
 23 A. Yes.  
 24 Q. And you knew Nadia was someone who was in  
 25 her 20's?

Page 375

1 A. Yes.  
 2 Q. All right. And then you saw another  
 3 picture of a Brazilian woman who had traveled or  
 4 flown on the plane before?  
 5 A. Yes.  
 6 Q. All right. And she also appeared to be a  
 7 woman to you not only in the photograph but from  
 8 your having seen her who appeared to be in her  
 9 20's?  
 10 A. Yes.  
 11 Q. Excuse me. Thank you. You talked about  
 12 Sarah Kellen's computer. Was she hooked into your  
 13 main system?  
 14 A. Not to my office in the staff house but  
 15 she was hooked into the main house.  
 16 Q. Okay. The same Citrix system?  
 17 A. Yes.  
 18 Q. And you said that Sarah had pictures of  
 19 women on her computer that you saw. Is that  
 20 correct?  
 21 A. Yes.  
 22 Q. Okay. And were those the same types of  
 23 pictures that Ms. Maxwell had, that is, females,  
 24 pictures of females who had traveled in with Mr.  
 25 Epstein from his plane?

Page 376

1 A. This were different pictures.  
 2 Q. Okay. Were any of hers of any of the  
 3 girls who came in on the plane, or the ladies or  
 4 women?  
 5 A. No.  
 6 Q. What were her pictures of?  
 7 A. They were young women modeling, you know.  
 8 I don't remember seeing nudity on Sarah's  
 9 computer.  
 10 Q. All right. Hers, when I say hers, the  
 11 photographs that Sarah Kellen had on her computer  
 12 were all of individuals who appeared -- or not  
 13 appeared, but were dressed and appeared to be  
 14 modeling?  
 15 A. Yes.  
 16 Q. Would it be a correct statement that none

17 of the women that you saw, that is the pictures of  
 18 the women that you saw on Sarah's computer were  
 19 any of the girls, women, whoever came to give  
 20 massages? Is that correct?  
 21 MR. EDWARDS: Object to the form.  
 22 MS. EZELL: Form.  
 23 THE WITNESS: That's correct.  
 24 BY MR. CRITTON:  
 25 Q. You said that Sarah you thought also had

Page 377

1 names and addresses of -- let me start over.  
 2 Strike that.  
 3 If I understood your testimony, you said  
 4 that Sarah had pictures -- start again.  
 5 You said that Sarah had the names and  
 6 phone numbers of some of the massage girls.  
 7 A. Yes.  
 8 Q. Or at least of the people that you  
 9 thought may have been called to give massages.  
 10 A. Yes.  
 11 MS. EZELL: Form.  
 12 MR. EDWARDS: Form.  
 13 BY MR. CRITTON:  
 14 Q. And was that in the same format that you  
 15 saw on Ms. Maxwell's computer?  
 16 A. No.  
 17 Q. Okay. What occasion would you have been  
 18 -- have had to use Sarah Kellen's computer?  
 19 A. She will instruct me to get some  
 20 information from her desk or telephone numbers, so  
 21 I will.  
 22 Q. And that's where you would have seen it?  
 23 A. Yes.  
 24 Q. I think you testified at your last  
 25 deposition, or the start of your deposition that

Page 378

1 the number of women that you remember came over to  
 2 give massages was something eight to ten, twelve,  
 3 I don't remember, what's your best recollection?  
 4 A. Can you repeat that, please?  
 5 Q. Of the women, of different women that you  
 6 knew came over to give massages during the time  
 7 that you worked for Mr. Epstein, '04 to '05,  
 8 during that time period, approximately how many  
 9 women were there?  
 10 MR. EDWARDS: Object to the form.  
 11 THE WITNESS: To give massages?  
 12 BY MR. CRITTON:  
 13 Q. Yes, sir.  
 14 A. Fifteen, yeah.  
 15 Q. So something between one and fifteen of  
 16 the names you would have seen on Ms. Kellen's

17 computer along with a phone number?  
 18 MR. EDWARDS: Form.  
 19 THE WITNESS: Yes.  
 20 BY MR. CRITTON:  
 21 Q. Do you remember how many you would have  
 22 seen?  
 23 A. Fifteen.  
 24 Q. Okay. You also told us earlier today  
 25 that you saw Sarah Kellen from time to time taking



Page 379

1 pictures in the dining room and the library.  
 2 A. Yes.  
 3 Q. Photographs.  
 4 A. Yes.  
 5 Q. Okay. Was she taking -- the pictures she  
 6 took were people who were clothed?  
 7 A. Yes.  
 8 Q. And were any of the pictures that she  
 9 took of any of the girls that you ever -- let me  
 10 strike that.  
 11 If I understood your original testimony  
 12 -- I don't want to say original. If I understood  
 13 your testimony from July 29th to what you told us  
 14 today as to the women who did come to give  
 15 massages they'd knock or somehow you would be  
 16 aware that they were at the back door, you would  
 17 punch the security code and lead them into the  
 18 kitchen.  
 19 A. Yes.  
 20 Q. Okay. When you brought them into the  
 21 kitchen you would say, hi, they would say hi back  
 22 to you, or something to that, short greeting,  
 23 you'd offer them water, there was never any  
 24 alcohol in the whole house other than I think you  
 25 said for one person at one time. Is that a fair

Page 380

1 statement?  
 2 A. Yes.  
 3 Q. All right. You left the kitchen, you  
 4 understood Sarah Kellen came down, and what  
 5 happened thereafter you don't have any personal  
 6 knowledge whatsoever?  
 7 A. That's correct.  
 8 MR. EDWARDS: Form.  
 9 BY MR. CRITTON:  
 10 Q. At some point in time Ms. Kellen might  
 11 contact you and say pay such and such X amount of  
 12 dollars, she is now getting ready to leave.  
 13 A. Yes.  
 14 Q. That maybe one. Another set of  
 15 circumstances might be you use the word commotion,  
 16 you might hear a commotion, I assume you don't  
 17 mean -- well, let me ask you, when you say  
 18 commotion, do you mean a disturbance, something  
 19 that was seriously like raised voices or merely  
 20 you just heard some people talking?  
 21 A. Conversation of people leaving.  
 22 Q. Okay. Not a commotion in the form of a  
 23 disturbance but a commotion in the sense that you  
 24 heard people talking?  
 25 A. Yes.

Page 381

1 Q. Regular conversation?  
 2 A. Yes.  
 3 Q. And, therefore, you might interject  
 4 yourself back in because you've been asked to pay  
 5 someone or to let them out?  
 6 MR. LANGINO: Form.  
 7 THE WITNESS: Yes, I was called to pay  
 8 them.  
 9 BY MR. CRITTON:  
 10 Q. All right. And when you hear that  
 11 conversation that would be another way that you  
 12 would know that the women were leaving?  
 13 A. Yes.  
 14 Q. And sometimes they'd leave without you  
 15 even being involved, if I understood it correctly?  
 16 A. That's correct.  
 17 Q. So, the only places that you ever saw the  
 18 women who came to give massages would be -- of the  
 19 some fifteen women during the time you were there  
 20 would be either when you let them into the house  
 21 and escorted them into the kitchen or as they were  
 22 leaving?  
 23 A. Yes.  
 24 Q. And I think you described one instance  
 25 earlier today is that you may have had [REDACTED] in the

Page 382

1 car, in the Suburban?  
 2 A. Yes.  
 3 Q. And that's the only person that you can  
 4 remember having driven any place, that is, of the  
 5 women who were described as having given massages?  
 6 MR. EDWARDS: Objection.  
 7 MS. EZELL: Objection, form.  
 8 THE WITNESS: Sir, I have to clarify  
 9 that I drove a lot of girls, but I don't  
 10 remember the names associated with the  
 11 faces. But this particular girl A., or  
 12 others, C., whatever, I remember driving in  
 13 the Suburban, but I cannot say this was --  
 14 BY MR. CRITTON:  
 15 Q. Let me clarify because what I want to be  
 16 clear is, is I do remember you testifying that  
 17 when some of the 20 plus year old models or  
 18 females would fly in with Mr. Epstein they might  
 19 want to go shopping, they might want to go to the  
 20 store, they may want to go to the drug store, they  
 21 may want to go to the beach, wherever they wanted  
 22 to go and you would drive them.  
 23 A. Yes.  
 24 Q. All right. And then I remember in  
 25 response to Ms. Ezell's questions today she asked

29 (Pages 379 to 382)

Page 383

1 you about having driven [REDACTED] and you recalled  
 2 having had her in the Suburban specifically.  
 3 A. Yes.  
 4 Q. Do you remember any of the other girls,  
 5 women who came to give massages ever having driven  
 6 them, or is [REDACTED] the only one that you remember?  
 7 MR. EDWARDS: Form.  
 8 THE WITNESS: I only remember [REDACTED] right  
 9 now for the fact that I was driving by the  
 10 airport and I showed her Mr. Epstein's  
 11 plane.  
 12 BY MR. CRITTON:  
 13 Q. All right. Which really takes me back to  
 14 really where I started with this series of  
 15 questions.  
 16 You saw the girls, the women who came in  
 17 to give the massages, when they came in if you  
 18 were advised or if you heard conversation and you  
 19 saw them you would see them when they left?  
 20 A. Yes.  
 21 Q. And you saw [REDACTED] because she was in the  
 22 Suburban on at least one occasion?  
 23 A. Yes.  
 24 Q. And, therefore, you never saw these  
 25 girls, these women who gave the massages in the

Page 384

1 dining room or the library. Would that be a fair  
 2 statement?  
 3 A. That's correct.  
 4 MR. EDWARDS: Form.  
 5 BY MR. CRITTON:  
 6 Q. All right. So, therefore, the pictures  
 7 that you saw Sarah Kellen taking of girls, women,  
 8 either in the dining room or library, those were  
 9 other individuals other than those who may have  
 10 given or who came for massages. Is that correct?  
 11 MS. EZELL: Form.  
 12 MR. EDWARDS: Form.  
 13 THE WITNESS: It's confusing, sir,  
 14 because there were a bunch of girls. I  
 15 don't know which one they were but I saw her  
 16 taking pictures of the groups,  
 17 BY MR. CRITTON:  
 18 Q. As to whether they were people who came  
 19 in on the planes or there may have been a massage  
 20 girl or more than one woman who gave a massage,  
 21 you just don't know as you sit here, you'd just be  
 22 speculating. Is that correct?  
 23 MR. EDWARDS: Form.  
 24 THE WITNESS: I don't know.  
 25 BY MR. CRITTON:

Page 385

1 Q. All right. Ms. Ezell asked you about Mr.  
 2 Dershowitz being present in Mr. Epstein's home,  
 3 and I think she asked -- and I think that you said  
 4 Mr. Epstein was a -- and he and Mr. Dershowitz  
 5 were friends?  
 6 A. Yes.  
 7 Q. She also I think asked was Mr. Dershowitz  
 8 ever there when one of the women who gave a  
 9 massage was present in the home?  
 10 A. I don't remember that.  
 11 Q. That's what I want to clear up. Is it  
 12 your testimony that Mr. Dershowitz was there when  
 13 any of the women came to Mr. Epstein's home to  
 14 give a massage?  
 15 A. Yes.  
 16 MR. EDWARDS: Form.  
 17 BY MR. CRITTON:  
 18 Q. As to whether any of those women were  
 19 ever associated with Mr. Dershowitz would it be a  
 20 correct statement that you have absolutely no  
 21 knowledge?  
 22 A. I don't know, sir.  
 23 Q. You don't know?  
 24 A. I don't know, sir.  
 25 MS. EZELL: Form.

Page 386

1 BY MR. CRITTON:  
 2 Q. Okay. Were you in any way attempting in  
 3 your response to Ms. Ezell to imply that Mr.  
 4 Dershowitz had a massage by one of these young  
 5 ladies?  
 6 A. I don't know, sir.  
 7 Q. You have no knowledge?  
 8 A. No, sir.  
 9 Q. And you certainly weren't implying that  
 10 that occurred, you just have no knowledge.  
 11 Correct?  
 12 MR. EDWARDS: Form.  
 13 THE WITNESS: I don't know.  
 14 BY MR. CRITTON:  
 15 Q. Sorry?  
 16 A. I don't know.  
 17 Q. I think in response to one of Ms. Ezell's  
 18 questions you responded that -- let me ask it this  
 19 way.  
 20 You never saw Mr. Epstein ever take  
 21 photographs of anyone. Would that be a correct  
 22 statement?  
 23 A. Yes.  
 24 Q. Would it be a correct statement you never  
 25 saw Mr. Epstein initiate a phone call to anyone?

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| <p style="text-align: right;">Page 387</p> <p>1 A. To place a phone call?</p> <p>2 Q. Yeah. Did you ever see him place a phone</p> <p>3 call?</p> <p>4 A. Yes.</p> <p>5 Q. If in fact, maybe it was this way, is</p> <p>6 that you never saw him call someone to schedule a</p> <p>7 massage appointment. Correct?</p> <p>8 A. That's correct.</p> <p>9 Q. I think you said that Ms. Kellen told you</p> <p>10 that Mr. Epstein would take photographs. Did I</p> <p>11 understand you correctly?</p> <p>12 A. I'm sorry, can you repeat that?</p> <p>13 Q. Did Ms. Kellen ever tell you that Mr.</p> <p>14 Epstein took a photograph of anyone?</p> <p>15 A. No, she said to me Mr. Epstein is like</p> <p>16 he's an amateur photographer.</p> <p>17 Q. Okay. I may have misunderstood you then.</p> <p>18 Let me clarify that testimony.</p> <p>19 It's your testimony that Ms. Kellen told</p> <p>20 you that Mr. Epstein is an amateur photographer?</p> <p>21 A. Yes.</p> <p>22 Q. She never told you that -- or let me</p> <p>23 strike that.</p> <p>24 Is it correct that she never told you</p> <p>25 that Mr. Epstein took photographs of any of the</p> | <p style="text-align: right;">Page 389</p> <p>1 Q. Of the time that you've done that</p> <p>2 approximately how many years does that include in</p> <p>3 your working life?</p> <p>4 A. Eight years, ten years.</p> <p>5 Q. All right. And have you worked for --</p> <p>6 have you been in other circumstances where you</p> <p>7 have worked around -- well, let me step back.</p> <p>8 With all of the individuals that you</p> <p>9 mentioned, estate manager, house manager, has this</p> <p>10 been for individuals who have or at least appear</p> <p>11 to have substantial wealth?</p> <p>12 A. Yes.</p> <p>13 Q. And as part of your duties, or not duties</p> <p>14 but as part of being a house manager or general</p> <p>15 manager for an estate do you interact with other</p> <p>16 estate managers?</p> <p>17 A. Yes.</p> <p>18 Q. And do you assist each other from time to</p> <p>19 time if someone needs help?</p> <p>20 A. That's correct.</p> <p>21 Q. And I assume that you've been in other</p> <p>22 estates in Palm Beach and probably in Fort</p> <p>23 Lauderdale and other locations?</p> <p>24 A. Yes.</p> <p>25 Q. As part of during your working career did</p>                                                                                             |
| <p style="text-align: right;">Page 388</p> <p>1 girls, women, who came over to give him a massage?</p> <p>2 A. That's correct.</p> <p>3 Q. All right. Mr. Rodriguez, other than Mr.</p> <p>4 Epstein I think you told us you had worked for a</p> <p>5 lady named Ms. Hammond?</p> <p>6 A. Yes.</p> <p>7 Q. And you had worked for a gentleman --</p> <p>8 A. Sidney Bowman.</p> <p>9 Q. Is he the gentleman from Fisher Island?</p> <p>10 A. No, Arturo Torres.</p> <p>11 Q. All right. In addition to Ms. Hammond up</p> <p>12 in Palm Beach you worked for other individuals as</p> <p>13 well?</p> <p>14 A. I did it part-time but I don't have her</p> <p>15 name right now, sir.</p> <p>16 Q. During your career as a -- let me strike</p> <p>17 that.</p> <p>18 Had you worked other than those places,</p> <p>19 Mr. Arturo --</p> <p>20 A. Arturo Torres, yes.</p> <p>21 Q. Arturo Torres, Ms. Hammond, the other</p> <p>22 individual you can't remember, and Mr. Epstein,</p> <p>23 have you worked for other individuals as an estate</p> <p>24 manager or general house manager?</p> <p>25 A. No, sir.</p>                                            | <p style="text-align: right;">Page 390</p> <p>1 you ever work in restaurant or a personal services</p> <p>2 type business where you would provide like</p> <p>3 catering or something like that to other wealthy</p> <p>4 individuals?</p> <p>5 A. I did.</p> <p>6 Q. Give us a little of your background if</p> <p>7 you could then, Mr. Rodriguez.</p> <p>8 A. I work in Long Island, Montauk Lake Club</p> <p>9 and Marina, a very exclusive country club where</p> <p>10 Mr. Nixon used to spend his summers, Richard</p> <p>11 Nixon. I worked for Leona Helmsley in New York.</p> <p>12 Very demanding lady. And then Mr. Torres in Texas</p> <p>13 in his ranch and as well as Fisher Island. And I</p> <p>14 was a general manager of one of his restaurants in</p> <p>15 San Antonio, Texas. This is the most high profile</p> <p>16 people that I worked for.</p> <p>17 Q. Okay. When you worked for Ms. Helmsley,</p> <p>18 Leona Helmsley, she used to have the Helmsley</p> <p>19 Palace and she with her husband, Harry Helmsley, I</p> <p>20 think they owned a number of real estate in</p> <p>21 addition to hotel properties.</p> <p>22 A. That's correct.</p> <p>23 Q. When you would -- I think you described</p> <p>24 her as a demanding person?</p> <p>25 A. Yes.</p> |

31 (Pages 387 to 390)

Page 391

1 Q. All right. In terms of these wealthy  
 2 people that you've worked for, these individuals,  
 3 do they all have, that is at least in terms of Mr.  
 4 Epstein, the way that his household was managed,  
 5 was it similar to other set of circumstances that  
 6 you've been involved with?  
 7 MR. HOROWITZ: Object to form.  
 8 THE WITNESS: They have a common ground,  
 9 yes.  
 10 BY MR. CRITTON:  
 11 Q. All right. And in terms of you talked  
 12 about Mr. Epstein that there was some sort of a  
 13 manual or a procedure book with regard to his  
 14 house.  
 15 A. House manual, yes.  
 16 Q. A house manual. Did other houses have  
 17 house manuals as well? Is that reasonably -- I  
 18 mean not common but it's something that you've  
 19 seen before?  
 20 MR. EDWARDS: Form.  
 21 THE WITNESS: I know a lot of houses do  
 22 but that was the only estate that we have a  
 23 house manual.  
 24 BY MR. CRITTON:  
 25 Q. And other individuals like where you've

Page 392

1 worked similar to Mr. Epstein -- now, Mr. Epstein  
 2 was single?  
 3 A. Yes.  
 4 Q. All right. And him having a lot of -- or  
 5 bringing a lot of attractive women and other  
 6 people to his house, I assume that didn't offend  
 7 you in any way?  
 8 MR. EDWARDS: Object to the form.  
 9 THE WITNESS: No, sir.  
 10 BY MR. CRITTON:  
 11 Q. At least based upon your experience in  
 12 dealing with other individuals either of some  
 13 notoriety like Ms. Helmsley or when you said the  
 14 club that you worked up is in Montauk --  
 15 A. Montauk Lake Club and Marina.  
 16 Q. Right. You ran into separate and apart  
 17 from Richard Nixon were there a lot of people,  
 18 corporate people, business people?  
 19 A. Yes.  
 20 Q. People of substantial resources and  
 21 wealth?  
 22 A. Yes.  
 23 Q. Have you found at least in your  
 24 experience that most of those people are pretty  
 25 discreet about -- when I say discreet, private

Page 393

1 about what they do?  
 2 MR. HOROWITZ: Object to the form.  
 3 THE WITNESS: Yes.  
 4 BY MR. CRITTON:  
 5 Q. And have you worked at other locations,  
 6 that is, in the other houses that you've worked  
 7 where they have massage tables?  
 8 A. Yes.  
 9 Q. And in those other locations where they  
 10 had a massage table, were they similar to the  
 11 massage table that was in Mr. Epstein's home?  
 12 A. Yes, sir.  
 13 Q. All right. Almost same make and model?  
 14 A. Same type, yes.  
 15 Q. And did other individuals in houses that  
 16 you worked at and other places where you helped  
 17 out other estate managers, would those individuals  
 18 have massages from time to time?  
 19 A. Yes.  
 20 Q. So having a massage or a massage table in  
 21 someone's house that you might -- that lives in  
 22 Palm Beach or Montauk or New York or something,  
 23 would you consider that unusual?  
 24 MR. HOROWITZ: Form.  
 25 THE WITNESS: No.

Page 394

1 BY MR. CRITTON:  
 2 Q. I think you told me at least in Mr.  
 3 Epstein's home other than for one guest he didn't  
 4 have any type of alcohol in the house. Is that  
 5 correct?  
 6 A. That's correct.  
 7 Q. Was that basically you understood that  
 8 that was one of the policies and procedure, no  
 9 alcohol in the house?  
 10 A. Yes.  
 11 Q. And did you ever see any type of illegal  
 12 or inappropriate drugs?  
 13 A. No, sir.  
 14 Q. And was that another policy or procedure,  
 15 absolutely no drugs of any kind?  
 16 A. No smoking in the house.  
 17 Q. All right. So no drugs, no smoking, no  
 18 alcohol?  
 19 A. Yes.  
 20 Q. Was that pretty typical for other Palm  
 21 Beach places that you were familiar with?  
 22 A. No.  
 23 Q. All right. And other places you'd always  
 24 find alcohol?  
 25 A. Yes.

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| <p style="text-align: right;">Page 395</p> <p>1 Q. All right. And you might find drugs?<br/>                 2 A. Yes.<br/>                 3 Q. And some pretty wild parties?<br/>                 4 A. Yes.<br/>                 5 Q. Now, with regard to the women who came to<br/>                 6 give massages, of those women, of those<br/>                 7 approximately fifteen that you described, how many<br/>                 8 of them came more than one -- more than one<br/>                 9 occasion?<br/>                 10 MR. HOROWITZ: Form.<br/>                 11 THE WITNESS: I'd say more than half.<br/>                 12 BY MR. CRITTON:<br/>                 13 Q. So maybe seven, eight, nine, ten?<br/>                 14 A. Yes.<br/>                 15 Q. Of those people that came on -- of those<br/>                 16 seven to ten that came on more than one occasion,<br/>                 17 did those individuals come on many occasions?<br/>                 18 A. Yes.<br/>                 19 Q. And as to the women who were -- who you<br/>                 20 understood were coming to give the massages --<br/>                 21 MR. EDWARDS: Form.<br/>                 22 MR. CRITTON: I'm not done yet.<br/>                 23 THE VIDEOGRAPHER: I need to go off the<br/>                 24 record for a second.<br/>                 25 (Thereupon, an interruption was had.)</p>                                                                                    | <p style="text-align: right;">Page 397</p> <p>1 MR. EDWARDS: Object to the form.<br/>                 2 BY MR. CRITTON:<br/>                 3 Q. And I don't know whether he asked, do you<br/>                 4 remember a person named T.M.?<br/>                 5 A. Yes.<br/>                 6 Q. And would she call from time to time<br/>                 7 asking if she could come to give a massage just<br/>                 8 like C.W.?<br/>                 9 MR. EDWARDS: Object to the form.<br/>                 10 THE WITNESS: Yes.<br/>                 11 BY MR. CRITTON:<br/>                 12 Q. So at least those two individuals, they<br/>                 13 were overtly, that is, they were asking whether<br/>                 14 they could come to give Mr. Epstein a massage.<br/>                 15 Correct?<br/>                 16 A. They will call and they will say I need<br/>                 17 to talk to Sarah, and Sarah fifteen minutes later<br/>                 18 will tell, Alfredo, we're going to have a massage<br/>                 19 with so and so.<br/>                 20 Q. So either C.W. or T.M. would call to ask<br/>                 21 if they could come and then a massage would be set<br/>                 22 then they would show up?<br/>                 23 A. That's correct, sir.<br/>                 24 Q. Okay. And from time to time they would<br/>                 25 bring other people as well?</p> |
| <p style="text-align: right;">Page 396</p> <p>1 THE VIDEOGRAPHER: We're back on the<br/>                 2 record.<br/>                 3 BY MR. CRITTON:<br/>                 4 Q. Mr. Rodriguez, I want to turn to the --<br/>                 5 stay with the women who came to give or at least<br/>                 6 were called to give the massages.<br/>                 7 You were shown a number of message pads,<br/>                 8 I think Mr. Mermelstein who represents a number of<br/>                 9 -- or at least certainly Jane Doe 2 and some<br/>                 10 others, you were identified or shown a bunch of<br/>                 11 message pads that had I think in most instances<br/>                 12 your initials, A.R. Do you recall that?<br/>                 13 A. Yes, I do.<br/>                 14 Q. I think one of the individuals that you<br/>                 15 identified that called often was C.W.?<br/>                 16 A. Yes.<br/>                 17 Q. Which is one of Mr. Edwards' clients.<br/>                 18 This lady called on a regular basis, or<br/>                 19 at least from looking at your pad she would call<br/>                 20 on a pretty regular basis. Is that true?<br/>                 21 A. Yes.<br/>                 22 Q. And she and others who are reflected on<br/>                 23 those message pads, they were calling to come to<br/>                 24 give massages. Correct?<br/>                 25 A. Yes.</p> | <p style="text-align: right;">Page 398</p> <p>1 A. That's correct.<br/>                 2 Q. Both C.W. and T.M.?<br/>                 3 A. Yes.<br/>                 4 Q. Of the females that -- the women that<br/>                 5 came to the house, did you ever see anyone force<br/>                 6 any of these women onto the property?<br/>                 7 A. No, sir.<br/>                 8 Q. Did you ever see anyone force them into<br/>                 9 the house?<br/>                 10 A. No.<br/>                 11 Q. Did you ever see anyone force them into<br/>                 12 the kitchen?<br/>                 13 A. No, sir.<br/>                 14 Q. Did you ever use any force, any type of<br/>                 15 intimidation or coercion to bring them into the<br/>                 16 house and get them into the kitchen?<br/>                 17 A. No, sir.<br/>                 18 Q. Did you ever observe Ms. Kellen using any<br/>                 19 force or intimidation or coercion --<br/>                 20 A. No, I did not.<br/>                 21 Q. -- with any of these individuals?<br/>                 22 A. I did not.<br/>                 23 MR. EDWARDS: Object to the form.<br/>                 24 BY MR. EDWARDS:<br/>                 25 Q. Did Ms. M. -- let me use the initials</p>                                                                                                                       |

33 (Pages 395 to 398)

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| <p style="text-align: right;">Page 399</p> <p>1 that way it will show up correctly.<br/>                 2 Did T.M. ever use from what you saw, did<br/>                 3 she ever use any force or coercion or intimidation<br/>                 4 with any of the women that she brought to the<br/>                 5 house?<br/>                 6 MR. HOROWITZ: Form.<br/>                 7 MR. EDWARDS: Object to the form.<br/>                 8 THE WITNESS: No, sir.<br/>                 9 BY MR. CRITTON:<br/>                 10 Q. Okay. I'm just talking about what you<br/>                 11 observed during the time. And you know what I<br/>                 12 mean by force?<br/>                 13 A. Yes.<br/>                 14 Q. You know what I mean by intimidation?<br/>                 15 A. Yes.<br/>                 16 Q. Could to be verbal intimidation or<br/>                 17 coercion, either verbally or using some form of<br/>                 18 her body, or their bodies.<br/>                 19 A. Yeah, I understand that.<br/>                 20 MR. EDWARDS: Form.<br/>                 21 MR. HOROWITZ: Form.<br/>                 22 MS. EZELL: Objection, form.<br/>                 23 BY MR. CRITTON:<br/>                 24 Q. When C.W. brought individuals to the<br/>                 25 house, did you ever see her use any force or</p>            | <p style="text-align: right;">Page 401</p> <p>1 Q. Did any of them ever appear to be<br/>                 2 frightened?<br/>                 3 MR. HOROWITZ: Form.<br/>                 4 THE WITNESS: No.<br/>                 5 BY MR. CRITTON:<br/>                 6 Q. Did any of the women appear to be<br/>                 7 fearful?<br/>                 8 A. No.<br/>                 9 Q. Did any of them appear to be<br/>                 10 uncomfortable in coming into the house?<br/>                 11 MR. EDWARDS: Form.<br/>                 12 THE WITNESS: No.<br/>                 13 BY MR. CRITTON:<br/>                 14 Q. At any time did any of them express to<br/>                 15 you verbally that they were in fear when they came<br/>                 16 into the house?<br/>                 17 A. No, sir.<br/>                 18 Q. Did any one of the fifteen girls that<br/>                 19 came to the back door, then into the kitchen, and<br/>                 20 prior to your leaving them in the kitchen say, Mr.<br/>                 21 Rodriguez, or Alfredo, or sir, could you get me<br/>                 22 out of here?<br/>                 23 A. No, sir.<br/>                 24 Q. Did any of them tell you verbally that<br/>                 25 they were uncomfortable?</p>                                                                                |
| <p style="text-align: right;">Page 400</p> <p>1 intimidation or coercion from what you could<br/>                 2 observe with those women who had come to give a<br/>                 3 massage?<br/>                 4 A. No.<br/>                 5 MR. EDWARDS: Form.<br/>                 6 MR. HOROWITZ: Form.<br/>                 7 MS. EZELL: Form.<br/>                 8 BY MR. CRITTON:<br/>                 9 Q. With any of the fifteen women that you<br/>                 10 observed who came to the home to give massages<br/>                 11 during the time period '04 through I think you<br/>                 12 said February of '05, the time period I think was<br/>                 13 it August, Mr. Rodriguez --<br/>                 14 A. August.<br/>                 15 Q. -- August of '04 through February of '05?<br/>                 16 A. March of '05.<br/>                 17 Q. Through the beginning of March '05?<br/>                 18 A. Yes.<br/>                 19 Q. Okay. That's the time period I'm<br/>                 20 focussing on.<br/>                 21 Of the approximately fifteen women that<br/>                 22 you came to see to give massages that you let in<br/>                 23 the back door after punching the security code,<br/>                 24 did any of them ever appear to be scared?<br/>                 25 A. No.</p> | <p style="text-align: right;">Page 402</p> <p>1 A. No.<br/>                 2 Q. Did anyone say help me or I'm scared?<br/>                 3 A. No.<br/>                 4 Q. Did all of them appear to be at least<br/>                 5 when they came to the back door in a reasonably<br/>                 6 good mood?<br/>                 7 A. Yes.<br/>                 8 Q. They all appeared to be happy?<br/>                 9 A. Yes.<br/>                 10 Q. Smile, I'd say interact with you verbally<br/>                 11 in your greetings?<br/>                 12 A. That's correct.<br/>                 13 Q. Did any one of the fifteen girls that you<br/>                 14 observed during the August '04 through March 2005<br/>                 15 time period from your personal observation appear<br/>                 16 to be there -- appear to be at the Epstein home<br/>                 17 not voluntarily?<br/>                 18 MR. EDWARDS: Object to the form.<br/>                 19 MR. HOROWITZ: Object to the form.<br/>                 20 THE WITNESS: No.<br/>                 21 BY MR. CRITTON:<br/>                 22 Q. Did any one of the fifteen women who came<br/>                 23 to give the massage ever tell you that they had<br/>                 24 been forced to come to the house or coerced into<br/>                 25 coming to the house?</p> |

34 (Pages 399 to 402)

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| <p style="text-align: right;">Page 403</p> <p>1 A. No.<br/>                 2 MR. EDWARDS: Form.<br/>                 3 BY MR. CRITTON:<br/>                 4 Q. For those women -- I think I need -- let<br/>                 5 me strike that.<br/>                 6 On some occasions you'd see the women<br/>                 7 come down from upstairs because you would either<br/>                 8 let them out of the house or you might give them<br/>                 9 an envelope that had money in it. Is that<br/>                 10 correct?<br/>                 11 A. Yes.<br/>                 12 Q. Did any of those -- Mr. Edwards asked you<br/>                 13 some questions -- I think it was Mr. Edwards,<br/>                 14 whether they had sat down and had anything to eat,<br/>                 15 whether they had cereal or anything like that.<br/>                 16 A. Yes.<br/>                 17 Q. Did you ever observe any of those women<br/>                 18 before they went upstairs eating anything at the<br/>                 19 house?<br/>                 20 A. Sometimes.<br/>                 21 Q. And I think he used -- he meaning Mr.<br/>                 22 Edwards, used cereal and ice cream.<br/>                 23 A. Yes.<br/>                 24 Q. And he said, if I recall from the last<br/>                 25 deposition, kids like ice cream.</p> | <p style="text-align: right;">Page 405</p> <p>1 them stop and have anything to eat or did you<br/>                 2 always see them at the end, that is they're ready<br/>                 3 to go?<br/>                 4 A. I didn't know, they came from downstairs,<br/>                 5 they went to the kitchen, but I didn't know they<br/>                 6 were there because I was in the guest house.<br/>                 7 Q. Okay, that's my question. You only<br/>                 8 observed them either if you heard conversation or<br/>                 9 Sarah had called you and said would you pay such<br/>                 10 and such?<br/>                 11 A. Yes.<br/>                 12 Q. At which time you would give them the<br/>                 13 envelope with money?<br/>                 14 A. Yes.<br/>                 15 Q. In that set of circumstances they were on<br/>                 16 their way basically to leave?<br/>                 17 A. Yes.<br/>                 18 Q. When you saw them leave did any of them<br/>                 19 at any time, any of the ones that you saw during<br/>                 20 August of '04 through March of '05 appear to you<br/>                 21 to be scared?<br/>                 22 A. No, sir.<br/>                 23 Q. Did any girls, women ever appear to have<br/>                 24 been injured in any way?<br/>                 25 MR. EDWARDS: Form.</p> |
| <p style="text-align: right;">Page 404</p> <p>1 A. Yes.<br/>                 2 Q. Do you remember him asking you that?<br/>                 3 A. Yes.<br/>                 4 Q. Are you familiar that teenagers like ice<br/>                 5 cream?<br/>                 6 A. Yes.<br/>                 7 Q. Are you familiar that people who are 20<br/>                 8 and 30 years old like ice cream?<br/>                 9 A. Yes.<br/>                 10 Q. Are you familiar that older people, even<br/>                 11 our age, Mr. Rodriguez, like ice cream too?<br/>                 12 A. Yes.<br/>                 13 Q. Okay. And when the individuals would sit<br/>                 14 there, and that is these women who would come over<br/>                 15 to give a massage and they would -- you would<br/>                 16 observe them eating, did they appear to be<br/>                 17 comfortable?<br/>                 18 A. Yes.<br/>                 19 MR. HOROWITZ: Form.<br/>                 20 BY MR. CRITTON:<br/>                 21 Q. Did they appear to be interacting with<br/>                 22 either you or the chef?<br/>                 23 A. Yes.<br/>                 24 Q. When any of those women would come over<br/>                 25 to give massage came downstairs, did you ever see</p>                                                                 | <p style="text-align: right;">Page 406</p> <p>1 THE WITNESS: No, sir.<br/>                 2 BY MR. CRITTON:<br/>                 3 Q. Did anyone appear to be in shock?<br/>                 4 A. No, sir.<br/>                 5 Q. Was anyone ever crying?<br/>                 6 A. No, sir.<br/>                 7 Q. Was anyone disheveled or appeared to be<br/>                 8 unhappy?<br/>                 9 A. No, sir.<br/>                 10 Q. Did all of them appear, that is the ones<br/>                 11 that you saw leave the house that you had an<br/>                 12 opportunity to observe during that time period,<br/>                 13 did they appear to be approximately the same<br/>                 14 personality, same demeanor that they had had when<br/>                 15 they came into the house?<br/>                 16 MR. HOROWITZ: Form.<br/>                 17 THE WITNESS: Yes.<br/>                 18 BY MR. CRITTON:<br/>                 19 Q. Did anyone ever tell you when they came<br/>                 20 down the stairs that they had been injured?<br/>                 21 A. No.<br/>                 22 Q. I'm talking about the young lady, the<br/>                 23 women who had given the massages that you saw<br/>                 24 actually leave the house, that is you had some<br/>                 25 interaction with, either some interaction as they</p>                          |

35 (Pages 403 to 406)

Page 407

1 were leaving the house, did anyone ever tell you  
 2 that they had been injured?  
 3 A. No, sir.  
 4 Q. Did they ever tell you that they had been  
 5 forced to do something against their will?  
 6 A. No.  
 7 Q. Did they ever tell you that they had been  
 8 forced to do something inappropriate?  
 9 A. No.  
 10 Q. Did they ever tell you that they had been  
 11 assaulted in any way?  
 12 A. No.  
 13 Q. Did they ever tell you that they had been  
 14 inappropriately touched?  
 15 A. No.  
 16 MR. HOROWITZ: Form. This is a  
 17 cumulative. He's already told you the  
 18 limited contact he had. This is totally  
 19 inappropriate line of questions.  
 20 MR. CRITTON: Is that a form objection?  
 21 MR. HOROWITZ: You're exceeding the scope  
 22 of the direct because nobody asked him --  
 23 MR. CRITTON: Form, you get form in  
 24 federal court, that's what you get. Give me  
 25 your form.

Page 408

1 MR. HOROWITZ: Form, cumulative.  
 2 MR. CRITTON: Great. Why don't you let  
 3 me finish the question and then you can  
 4 object to it.  
 5 Could you give me back what my last  
 6 question was, please?  
 7 (Thereupon, a portion of the record was  
 8 read by the reporter.)  
 9 THE WITNESS: No.  
 10 BY MR. CRITTON:  
 11 Q. Did they ever tell you that they had been  
 12 sexually assaulted in any way?  
 13 MR. EDWARDS: Form.  
 14 MR. HOROWITZ: Form.  
 15 THE WITNESS: No.  
 16 BY MR. CRITTON:  
 17 Q. I'm sorry?  
 18 A. No.  
 19 Q. At any time did you hear anyone -- strike  
 20 that.  
 21 As to the women who came to give a  
 22 massage, did you ever hear anyone scream?  
 23 A. No, sir.  
 24 Q. Did you ever hear anyone cry out what  
 25 sounded like to you help?

Page 409

1 MR. EDWARDS: Form.  
 2 THE WITNESS: No.  
 3 BY MR. CRITTON:  
 4 Q. Did you ever hear anyone yell rape or  
 5 assault or battery?  
 6 MR. HOROWITZ: Form.  
 7 THE WITNESS: No.  
 8 BY MR. CRITTON:  
 9 Q. Did you ever hear anyone yell out in  
 10 anger?  
 11 A. No.  
 12 Q. You've gone online, Mr. Rodriguez, and  
 13 looked at various articles or postings that have  
 14 been made regarding these cases. Is that a fair  
 15 statement?  
 16 A. I'm sorry?  
 17 Q. If I understood your testimony from July  
 18 29th and a little bit today, is that you've gone  
 19 online and read some articles and/or what the  
 20 police report may have said, that is, you've read  
 21 information that you've -- about these lawsuits  
 22 after the time that you left Mr. Epstein's  
 23 employment.  
 24 A. Yes.  
 25 Q. Correct?

Page 410

1 A. Yes.  
 2 Q. And, therefore, you have at least seen  
 3 certain allegations and what people say occurred,  
 4 or at least their recitation of what may have  
 5 occurred at Mr. Epstein's home.  
 6 A. Yes.  
 7 Q. You have no personal knowledge one way or  
 8 the other.  
 9 MR. HOROWITZ: Object to the form.  
 10 MR. EDWARDS: Form.  
 11 BY MR. CRITTON:  
 12 Q. Correct?  
 13 A. That's correct.  
 14 Q. Are you also aware that the individuals  
 15 who have filed lawsuits want in some instance  
 16 millions of dollars?  
 17 A. Yes.  
 18 Q. Okay. Are you aware that some of them  
 19 are now claiming that they were sexually  
 20 assaulted?  
 21 A. Yes.  
 22 Q. And battered?  
 23 A. Yes.  
 24 Q. And you have no information, no personal  
 25 knowledge in that regard. Is that true?

36 (Pages 407 to 410)



Page 411

1 A. Yes.  
 2 MR. EDWARDS: Form.  
 3 MR. HOROWITZ: Form.  
 4 BY MR. CRITTON:  
 5 Q. All right. Were you aware of the  
 6 backgrounds of any of these women who came over to  
 7 give massages?  
 8 MR. HOROWITZ: Form.  
 9 THE WITNESS: No, sir.  
 10 BY MR. CRITTON:  
 11 Q. Well, have you -- did any one of the  
 12 females who ever came to give massages, did they  
 13 ever tell you that they were prostitutes?  
 14 A. No, sir.  
 15 Q. Did they ever tell you that they had been  
 16 lead into a life of prostitution?  
 17 MR. HOROWITZ: Form.  
 18 THE WITNESS: No.  
 19 BY MR. CRITTON:  
 20 Q. Did they ever tell you about their family  
 21 life, whether it involved prostitution, abuse,  
 22 prior posttraumatic stress syndrome, drugs,  
 23 alcohol, abuse by individuals, physical abuse as  
 24 well as verbal abuse?  
 25 A. No, they didn't tell me.

Page 412

1 Q. And, obviously, you have no personal  
 2 knowledge one way or the other --  
 3 A. No, sir.  
 4 Q. -- with regard to what their backgrounds  
 5 were before they ever met or came in contact with  
 6 Mr. Epstein?  
 7 A. No, sir.  
 8 Q. Did any person, female, who came to give  
 9 a massage at the Epstein home, did anyone ever  
 10 come downstairs and say, Mr. Rodriguez, or sir,  
 11 call the police?  
 12 MR. EDWARDS: Form.  
 13 MR. HOROWITZ: Form.  
 14 THE WITNESS: No, sir.  
 15 BY MR. CRITTON:  
 16 Q. I think you said on one occasion you saw  
 17 someone parked in a vehicle inside the gate that  
 18 you didn't recognize.  
 19 A. Exactly.  
 20 Q. You called the police?  
 21 A. Yes, I did.  
 22 Q. Did you go to the police or you called  
 23 the police and they came?  
 24 A. I went to the police department.  
 25 Q. So how did you -- did you actually leave

Page 413

1 the property in your car?  
 2 A. I was pulling over from Publix so I  
 3 turned around and I went to the police and say --  
 4 Q. Okay. You were coming back to the home  
 5 when you saw that car there?  
 6 A. Exactly.  
 7 Q. And they sent -- they, the police, sent a  
 8 police car with you to come there?  
 9 A. Yes.  
 10 Q. Did you and the police officer walk up to  
 11 the car?  
 12 A. The police went first.  
 13 Q. All right. And if I understand that,  
 14 that was in January of '05?  
 15 A. Yes.  
 16 Q. And when you did that then did you follow  
 17 behind the police officer to see who was in the  
 18 car?  
 19 A. Yes.  
 20 Q. And then you recognized that as [REDACTED]?  
 21 A. Yes.  
 22 Q. And [REDACTED] said she had come back or was  
 23 there to get some money?  
 24 A. Yes.  
 25 Q. And did you in fact give her money?

Page 414

1 A. Yes, I did.  
 2 Q. And I think you said you told the police  
 3 officer you recognized her?  
 4 A. Yes.  
 5 Q. Did you have to get permission to pay her  
 6 or did you just pay her?  
 7 A. No, because Sarah told me already but I  
 8 forgot she was going to be that late, so that was  
 9 my concern in calling the police.  
 10 Q. Okay. And that person who came, do you  
 11 have any idea what her age was at that time?  
 12 A. That night?  
 13 Q. Right, January of '08.  
 14 A. No, no.  
 15 Q. I'm sorry, January of '05.  
 16 A. No.  
 17 Q. You mentioned some conversations that you  
 18 had had with Louella who was I think she was one  
 19 of the house -- the main housekeeper.  
 20 A. Yes.  
 21 Q. And Louella told you a number of thoughts  
 22 that she had. Is that correct?  
 23 A. Yes.  
 24 Q. And as to Louella what she told you about  
 25 -- let me strike that.

Page 415

1 I think you told us, you were asked  
 2 questions about sex toys, I think you certainly  
 3 described the back massagers. Correct?  
 4 A. Yes.  
 5 Q. I think you said the only sex toys that  
 6 you ever saw were in the armoire at the end of Mr.  
 7 Epstein's bed.  
 8 A. Yes.  
 9 Q. Okay. And whatever other sex toys that  
 10 to which there was a reference, that's something  
 11 that Louella told you. Is that correct?  
 12 A. That's correct.  
 13 Q. You were asked at the last deposition, I  
 14 don't remember who asked the question, but whether  
 15 you had ever seen pornography on any computer. I  
 16 think one of your responses was you saw some  
 17 photos of a naked woman who appeared to you to be  
 18 a model.  
 19 A. Yes.  
 20 Q. Okay. Do you consider every photograph,  
 21 picture, painting of a naked nude woman to be  
 22 pornography?  
 23 MR. HOROWITZ: Form.  
 24 MS. EZELL: Objection, form.  
 25 THE WITNESS: I consider -- well, if it's

Page 416

1 a frontal picture it's pornography, I will  
 2 look at my way.  
 3 BY MR. CRITTON:  
 4 Q. In your view?  
 5 A. Yes.  
 6 Q. So if you looked at -- I don't remember  
 7 whether Playboy still has -- say a Playboy that  
 8 has a frontal nudity shot of a woman, you would in  
 9 essence say that Playboy is selling pornography?  
 10 A. Yes.  
 11 Q. Therefore, every person who buys a  
 12 Playboy that has over the last umpteen tens of  
 13 years that has a frontal picture of a woman in the  
 14 nude would be purchasing pornography whether it's  
 15 from CVS, or Walgreens, or Eckerd as they existed,  
 16 or any grocery store that sells them?  
 17 A. Yes.  
 18 MS. EZELL: Objection, form.  
 19 MR. EDWARDS: Form.  
 20 MR. HOROWITZ: Form.  
 21 BY MR. CRITTON:  
 22 Q. The photographs -- I'm sorry, the  
 23 pictures that you saw in the computer, I think you  
 24 were able to draw those up or bring those up from  
 25 your own computer.

Page 417

1 A. To bring the pictures from my computer?  
 2 Q. Let me rephrase the question. I thought  
 3 what you said last time was that as to the  
 4 pictures that you did see of naked women -- of a  
 5 naked woman or naked women on the computer, that  
 6 you've looked at those photographs through your  
 7 computer.  
 8 A. No.  
 9 Q. Okay. Then I may have misunderstood you.  
 10 Was your reference to Ms. Maxwell's computer that  
 11 you made at the last deposition?  
 12 A. Yes.  
 13 Q. Okay. Your computer that you had either  
 14 in the staff house or that you --  
 15 A. Didn't access.  
 16 Q. You couldn't access those files?  
 17 A. That's correct.  
 18 Q. All right, now I'm with you. So the  
 19 photographs you've talked of the nude individuals,  
 20 or the naked women, were the photographs that  
 21 we've already talked about with both, i.e., in  
 22 Ms. Maxwell's computer?  
 23 A. Yes.  
 24 Q. Thank you for clearing that up.  
 25 I'm going to ask you to assume that C.W.

Page 418

1 who you've described as having come to Mr.  
 2 Epstein's house on three or four times a week for  
 3 a period of time, one of her claims in this case  
 4 is that she has been emotionally traumatized by  
 5 her contact with Mr. Epstein. Just assume that to  
 6 be true for purposes of this question.  
 7 Did you ever observe any what you would  
 8 have seen as emotional trauma or any type of  
 9 disturbance with C.W. on the many times she came  
 10 to your house?  
 11 MR. EDWARDS: Form.  
 12 THE WITNESS: I didn't see any.  
 13 BY MR. CRITTON:  
 14 Q. Does it make sense to you that a person  
 15 who claims emotional trauma would continue to come  
 16 back to the house, does that make sense to you,  
 17 sir?  
 18 MR. EDWARDS: Form.  
 19 MR. HOROWITZ: Form.  
 20 MR. WILLITS: Object to the form of the  
 21 question.  
 22 THE WITNESS: I'm not a psychologist.  
 23 MR. EDWARDS: Can you state your answer,  
 24 I didn't hear it?  
 25 THE WITNESS: Yeah, I'm not a

Page 419

1 psychologist, I don't know.  
 2 MR. CRITTON: I have no further  
 3 questions.  
 4 REDIRECT EXAMINATION  
 5 BY MR. EDWARDS:  
 6 Q. Mr. Rodriguez, I don't know if we covered  
 7 this last time, I think that we did not, but can  
 8 you tell us during the period of time when you  
 9 worked at that house at El Brillo, Mr. Epstein's,  
 10 what cars did he own or were in the driveway?  
 11 A. We have two Suburbans, two Mercedes 600,  
 12 and a Cobra, and a motorcycle.  
 13 Q. And which, if any, did he drive?  
 14 A. He preferred the Mercedes or any of the  
 15 Suburbans.  
 16 Q. All right. Do you know where he owns  
 17 homes?  
 18 A. Yes.  
 19 Q. Where?  
 20 MR. CRITTON: Form.  
 21 THE WITNESS: Paris, New York City, El  
 22 Brillo, Saint James Island -- I'm sorry, an  
 23 Island in the Caribbean, and a ranch in New  
 24 Mexico.  
 25 BY MR. EDWARDS:

Page 420

1 Q. Have you been to any of the other  
 2 properties?  
 3 A. No.  
 4 Q. Do you know the house managers at any of  
 5 the other properties?  
 6 A. Yes.  
 7 Q. And who are they?  
 8 A. Balsone in Paris, good friend of mine  
 9 from Brazil. And the people in New York give me  
 10 the briefing when I came aboard. There is a  
 11 couple from the Philippines. And I talked to the  
 12 couple that used to own the Island -- I mean who  
 13 used to manage the Island, a couple from South  
 14 African. Balsone was closer to me.  
 15 Q. Have you talked to Balsone about whether  
 16 or not Mr. Epstein has massages when he is at that  
 17 place?  
 18 A. Yes, I did.  
 19 Q. And what did he say about that?  
 20 A. That he had a lot of massages over there  
 21 too.  
 22 MR. CRITTON: Mr. Balsone was which one?  
 23 THE WITNESS: Baslone was the house  
 24 manager of Paris, 22 Foch Avenue.  
 25 BY MR. EDWARDS:

Page 421

1 Q. What's the address?  
 2 A. 22 Foch Avenue, Paris. F-O-C-H.  
 3 Q. Okay. Do you know a telephone number for  
 4 Balsone?  
 5 A. No, I don't remember, sir.  
 6 Q. All right. How did it come up that you  
 7 talked to him about whether or not Mr. Epstein had  
 8 massages at that house?  
 9 A. He came on two occasions and stay with me  
 10 for a week because Mr. Epstein wanted me to get  
 11 into his style of running the house, and he was  
 12 good enough to give me some inside information,  
 13 what he likes and doesn't like, so he told me the  
 14 same thing was in Paris.  
 15 Q. And I think that you described Mr.  
 16 Epstein usually had about two massages a day, or  
 17 at least we were calling them massages.  
 18 A. Yes, sir.  
 19 MR. CRITTON: Form.  
 20 BY MR. EDWARDS:  
 21 Q. And did Mr. Balsone describe it in a  
 22 similar fashion --  
 23 A. Yes.  
 24 Q. -- in Paris?  
 25 And did he also tell you that the girls

Page 422

1 were very young in age that he was receiving these  
 2 massages from?  
 3 MR. CRITTON: Form.  
 4 THE WITNESS: Yes.  
 5 BY MR. EDWARDS:  
 6 Q. Did he indicate whether or not -- or how  
 7 old these girls were?  
 8 A. No, he didn't told me.  
 9 Q. Just that the age group was similar to  
 10 the age group that he was interested in in Palm  
 11 Beach?  
 12 MR. EDWARDS: Form.  
 13 THE WITNESS: Yes.  
 14 BY MR. EDWARDS:  
 15 Q. And did you talk to any of the house  
 16 managers in New York?  
 17 A. No.  
 18 Q. Who was the house manager in New York at  
 19 the time when you were the house manager at El  
 20 Brillo?  
 21 A. His nickname was Jo-Jo, but I don't  
 22 remember. Jo-Jo and his wife, but I don't  
 23 remember his name, sir.  
 24 Q. Do you know whether Mr. Epstein would  
 25 have massages when he was in New York at his New

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 REPLY IN SUPPORT OF MOTION *IN LIMINE* TO EXCLUDE *IN TOTO* CERTAIN DEPOSITIONS DESIGNATED BY PLAINTIFF FOR USE AT TRIAL**

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Defendant Ghislaine Maxwell (“Ms. Maxwell”) files her Reply in Support of the Motion in Limine to Exclude In Toto certain depositions designated by Plaintiff for use at trial and states as follows:

**I. PLAINTIFF CANNOT SATISFY THE LEGAL REQUIREMENTS FOR USE OF CERTAIN DEPOSITIONS AT TRIAL**

**A. Jeffrey Epstein and Ronald Rizzo Are Not Unavailable**

Plaintiff cannot claim that Jeffery Epstein and Ronald Rizzo are “unavailable witnesses” whose testimony can be presented by deposition at trial under Rule 34 of the Federal Rules of Civil Procedure. She admits she simply had not, prior to designating testimony, even attempted to serve these witnesses or obtain their attendance at trial. She has now obtained an agreement to accept service by Mr. Epstein’s counsel, mooted any claim that he is unavailable.<sup>1</sup> With respect to Mr. Rizzo, she concedes he resides within 100 miles of the courthouse, and provides no basis to claim that he cannot be served. Based on these confessions, the Motion in Limine to exclude the use of the designated portions of these depositions in toto must be granted.

**B. As a Retained Expert, Phillip Esplin Cannot Be Deemed Unavailable**

Plaintiff’s argument concerning Phillip Esplin fails to acknowledge or even address the cases cited that *require* that prior to being permitted to use prior sworn testimony of an expert witness she must carry the affirmative burden on proving: 1) Plaintiff “attempt[ed] to secure the voluntary [trial] attendance of a witness who lives beyond the subpoena power of the court” and 2) that no similar expert is available. *Carter-Wallace, Inc. v. Otte*, 474 F.2d 529, 536 (2d Cir. 1972). Plaintiff cannot carry this burden, requiring that the Motion in Limine be granted.

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<sup>1</sup> Issues concerning if Mr. Epstein should be required to appear to invoke this fifth amendment rights will be addressed in Response to Plaintiff’s Motion to Present Testimony from Jeffrey Epstein for Purposes of Obtaining an Adverse Inference.

Plaintiff's misplaced argument that Ms. Maxwell is somehow required to make Dr. Esplin available at trial violates the fundamental rules of trial and the requirements for *rebuttal* witnesses. Of course, at this point, Ms. Maxwell does not know information Plaintiff may present in her case-in-chief. Ms. Maxwell has filed well-founded motions *in limine* to exclude the testimony of both Dr. Kliman and Professor Coonan prohibiting from providing their credibility and vouching opinions. This is the subject matter of Dr. Esplin's rebuttal report which explains that there is no reliable or scientific methodology by which an expert could reliably come to such opinions. Of course, if the improper testimony by Dr. Kliman and Professor Coonan is excluded, as it should be, there will be nothing for Dr. Esplin to "rebut" and he will not be called as a witness in the defense case-in-chief. In light of the well settled rules that a rebuttal expert is "intended solely to contradict or rebut evidence on the same subject matter identified" in the expert report of another party, there would be no basis to for Dr. Esplin to testify if Kliman and Coonan are excluded. Fed. R. Civ. P. 26(a)(2)(C)(ii). Moreover, because Dr. Esplin is a designated *rebuttal* expert, it is entirely improper to have any portion of his opinions or testimony presented in the Plaintiff's case in chief. *See Lindner v. Meadow Gold Dairies, Inc.*, 249 F.R.D. 625, 636 (D. Hawaii 2008) (holding that individuals designated only as rebuttal experts could present limited testimony, *could not testify as part of a party's case-in-chief*, and would not be allowed to testify "unless and until" the experts they were designated to rebut testified at trial); *Johnson v. Grays Harbor Cmty. Hosp.*, No. C06-5502BHS, 2007 WL 4510313, at \*2 (W.D.Wash. Dec. 18, 2007) (finding that experts designated as rebuttal witnesses would "be permitted only to offer rebuttal testimony at trial"). Plaintiff also fails to explain how the designated testimony could be deemed permissible given that the questions posed were all

outside of the scope of Dr. Esplin's opinion. While Plaintiff may wish to waive this requirement of the rules of procedure and evidence, Ms. Maxwell does not.

Regardless, any decisions Ms. Maxwell and the undersigned counsel decide to make concerning their presentation of the defense and which witness to call is ours alone to make. There is no requirement that a party call a designated expert to testify if they choose not to do so at the time of trial. Such strategic decisions are solely in the province of the parties and their counsel. If Dr. Esplin is presented as a rebuttal witness by the defense, he will appear live. If he is not, then there is no rebuttal witness, and none to cross examine.

**II. ██████████ WAS NOT PROPERLY "REFRESHED" AND THE READING OF THE HEARSAY POLICE REPORT IS INADMISSABLE**

The use of the deposition testimony of ██████████, and the reading or summary of hearsay statement in the Police Report sought to be admitted through counsel's questions is simply improper. As a small sampling of the designated testimony makes clear, there was no proper "refreshing" of recollection:

Q. Do you remember how old you were when you met Jeffrey Epstein?

A. Sixteen or 17.

Q. Okay. And have you reviewed –

A. I may have been 15. I don't recall. I apologize.

Q. If you told the police officer 16, you were telling the truth?

A. At the time, they were fresh.

...

Q. Okay. After speaking to the police or while speaking to the police, do you remember telling them that you're not safe because you're talking about this?

MR. PAGLIUCA: Object to form and foundation.

THE WITNESS: Yes.

BY MR. EDWARDS:

Q. And that you had heard Jeffrey Epstein making threats to people on the telephone?

MR. PAGLIUCA: Object to form and foundation.

THE WITNESS: Yes. He wasn't always friendly  
*See* Menninger Decl., Ex. F, 10:6-14; 43:15-44:4

As explained in in Wright & Miller, Federal Practice and Procedures, the use of a document during testimony to refresh recollections is limited:

The law also places limits on how counsel and the witness may use a writing to refresh memory. In the usual case counsel will hand the witness the writing, show counsel for the adverse parties a copy, and ask the witness to silently read the writing. Counsel then will ask the witness if the writing has refreshed the witness' memory. If the witness responds in the affirmative, counsel will retrieve the writing and ask the witness to testify as to the matters on which the witness' memory was refreshed. Even where the witness claims a refreshed recollection, the court again has discretion to preclude further testimony if the circumstances suggest that the writing engendered a false memory. If the witness states that his recollection has not been refreshed, he cannot then testify as to the contents of the writing unless it is shown that the writing itself is admissible.

§ 6184 Refreshing Memory—Requirements and Procedures, 28 Fed. Prac. & Proc. Evid. § 6184 (2d ed.) (internal citations omitted); *see also* *Goings v. U.S.*, 377 F.2d 753, 759–762 (8th Cir. 1967) (trial court improperly permitted prosecutor to ask leading questions concerning contents of witness' written statement under the pretext of refreshing recollection but without laying the proper foundation; “[I]f a party can offer a previously given statement to substitute for a witness’s testimony under the guise of ‘refreshing recollection,’ the whole adversary system of trial must be revised. *The evil of this practice hardly merits discussion. The evil is no less when an attorney can read the statement in the presence of the jury and thereby substitute his spoken word for the written document.*”) (italics in original). *Gaines v. United States*, 349 F.2d 190, 192 (D.C. Cir. 1965) (error to allow prior written statement to be read to the witness in front of the jury for the purpose of refreshing recollection because “it was not necessary for counsel to read the statements aloud in the jury's presence. This is liable to cause the jury to consider their contents as evidence notwithstanding instructions to the contrary.”)



All testimony from ██████████ deposition based on leading questions summarizing her hearsay statements in the police report must be excluded.

With respect to the police report itself, this will obviously be a subject of a Motion in Limine. At this time, two points will suffice. Plaintiff's claim that she is not attempting to offer the police report for the truth of the matters asserted therein is farcical, which is evident in every briefing touching on the subject matter. Second, while the full 803(8) issue will be briefed, for present purposes we will simply point out that ██████████ (or any other witnesses statement contained in the report) will never be admissible unless there is a separate and independent hearsay exemptions for such statement. As the Second Circuit has clearly held:

“It is well established that entries in a police report which result from the officer's own observations and knowledge may be admitted *but that statements made by third persons under no business duty to report may not.*” *United States v. Pazzint*, 703 F.2d 420, 424 (9 Cir.1983) (emphasis in original).

*Parsons v. Honeywell, Inc.*, 929 F.2d 901, 907 (2d Cir. 1991)(quoting *United States v. Pazzint*, 703 F.2d 420, 424 (9[th] Cir.1983)).

Plaintiff does not address the objections to ██████████ deposition under Fed. R. Evid. 401, 402 and 602 based on lack of personal knowledge, or the issues concerning the improper leading of this witness. They should thus be deemed confessed and are not re-argued here.

**III. TESTIMONY AND STATEMENTS MADE IN OTHER MATTERS TO WHICH MS. MAXWELL WAS NOT A PARTY, WAS NOT PRESENT, HAD NO NOTICE, AND DID NOT PARTICIPATE CANNOT BE DESIGNATED IN THIS CASE**

Plaintiff does not seriously contest that the requirements of Fed. R. Civ. P. 32 and Fed. R. Evid. 804 cannot be met with respect to Mr. Rodriguez's deposition testimony. Indeed, the Plaintiff's Motions to Exclude Designation of Depositions Excerpts of Alan Dershowitz and Plaintiff argued this precise point. Ms. Maxwell was not a party to any of the litigations in which Mr. Rodriguez was deposed; Ms. Maxwell was neither present or given notice of the deposition.

Likewise, under Rule 32(a)(8), the subject matters of those litigations were completely different. The cases were personal claims against Mr. Epstein by various individuals. There could be no identity of issues between those matters and this case. Those cases were about personal claims against Mr. Epstein and had nothing to do with Ms. Maxwell. This case is about a *statement* by Ms. Maxwell's press agent *made over 6 years later*. There could be no motivations to develop similar testimony because the claims in this action by definition did not exist when the depositions was taken.

Mr. Epstein's counsel had no motive to discuss anything concerning Ms. Maxwell. He certainly had no motive to cross-examine Mr. Rodriguez regarding any interactions between Ms. Maxwell and Plaintiff given that Mr. Rodriguez had never met Plaintiff. The sheer lack of discussion of Ms. Maxwell, or follow up on any of the statements made concerning Ms. Maxwell makes clear there was simply no similar motive for Mr. Epstein's counsel to cross examine Mr. Rodriguez as Ms. Maxwell would have in this case.

Knowing that any argument for admission under Fed. R. Civ. P. 32 and Fed. R. Evid. 804 must fail, Plaintiff throws a Hail Mary and seeks admission of the testimony under the "Residual Hearsay" clause, 807. It is apparent that this is the new go-to for Plaintiff because of the serious evidentiary issues with the evidence she seeks to admit. Congress was very clear that it "intended that the residual hearsay exceptions will be used very rarely, and only in exceptional circumstances." Committee on the Judiciary, S.Rep.No.93-1277, Note to Paragraph (24), 28 U.S.C.A. Fed. R. Evid. p. 583 (1975). For this reason, it set very specific parameters that, none of which are satisfactorily met in the circumstances here.

- (1) the statement has equivalent circumstantial guarantees of trustworthiness;
- (2) it is offered as evidence of a material fact;

- (3) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and
- (4) admitting it will best serve the purposes of these rules and the interests of justice.

There is nothing trustworthy about Mr. Rodriguez or his statements. Mr. Rodriguez is a convicted criminal, and was convicted for obstruction of justice *based on the very testimony Plaintiff seeks to admit*. He either created evidence to use in those proceedings, or he hid evidence in them. Either way, his entire testimony is inherently untrustworthy.

Mr. Rodriguez has no knowledge of any fact material to this case. He flatly testifies that he had never heard or, met or seen the Plaintiff. He worked for Mr. Epstein over 2 years after Plaintiff left the country. Nothing Mr. Rodriguez could have possibly testified to, even if he was alive, has any bearing on any *material* fact.

Plaintiff's attempt to claim that Mr. Rodriguez's testimony "is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts" is at best disingenuous. Plaintiff has designated the testimony of Juan Alessi, Mr. Rodriguez's predecessor who held that position during the timeframe in which Plaintiff claims to have been held as a "sex slave" by Mr. Epstein. It simply defies logic to claim that Mr. Rodriguez' testimony would somehow be *more probative* than that of the person in his same position at the time Plaintiff alleges she was being held captive as a sex slave.

Finally, nothing about the testimony will best serve the purposes of the rules or evidence or justice. Mr. Rodriguez's testimony is nothing more than hearsay and speculation, as pointed out in the specific objections. The purpose of the rules is thwarted, not served, by the admission of any portion of this wholly irrelevant and improper testimony.

**CONCLUSION**

For the forgoing reasons, and those set forth in the Defendant's Motion In Limine To Exclude In Toto Certain Depositions Designated By Plaintiff For Use At Trial, Ms. Maxwell requests that the relief requested therein be granted.

Dated: February 17, 2017

Respectfully submitted,

*/s/ Laura A. Menninger*

\_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I certify that on February 17, 2017, I electronically served this *Defendant's Reply In Support Of Motion In Limine To Exclude In Toto Certain Depositions Designated By Plaintiff For Use At Trial* via ECF on the following:

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/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 Reply in Support of Motion *In Limine* To Exclude *In Toto*  
Certain Depositions Designated By Plaintiff For Use At Trial**

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 Reply to her Motion in Limine to Exclude In Toto Certain Depositions Designated by Plaintiff for Use at Trial.

2. Attached as Exhibit F (filed under seal) are true and correct copies of excerpts from the deposition of [REDACTED] on June 20, 2016, designated Confidential under the Protective Order.

Executed on February 17, 2017.

*s/ Laura A. Menninger*

\_\_\_\_\_  
Laura A. Menninger

**CERTIFICATE OF SERVICE**

I certify that on February 17, 2017, I electronically served this *Declaration of Laura A. Menninger in Support of Defendant's Reply in Support of Motion in Limine to Exclude In Toto Certain Depositions Designated by Plaintiff for Use at Trial* via ECF on the following:

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*/s/ Nicole Simmons*

---

Nicole Simmons



# **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 20, 2016

9:12 a.m.

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

Deposition of [REDACTED] pursuant to notice, taken by Plaintiff, at the offices of Podhurst Orseck, 25 West Flagler Street, Suite 800, Miami, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

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A P P E A R A N C E S:

BOIES SCHILLER & FLEXNER, LLP

Attorneys for Plaintiff

401 East Las Olas Boulevard  
Fort Lauderdale, Florida 33301

BY: BRADLEY EDWARDS, ESQ.

HADDON MORGAN & FOREMAN, P.C.

Attorneys for Defendant

150 East 10th Avenue  
Denver, Colorado 80203

BY: JEFFREY PAGLIUCA, ESQ.

PODHURST ORSECK, P.A.

Attorneys for Deponent

25 West Flagler Street  
Suite 800

Miami, Florida 33130

BY: ROBERT JOSEFSBURG, ESQ.

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I N D E X

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|------------------------------------------|----|
| Examination by Mr. Edwards .....         | 4  |
| Examination by Mr. Pagliuca .....        | 57 |
| Further Examination by Mr. Edwards ..... | 68 |

E X H I B I T S

|                            |   |
|----------------------------|---|
| Deposition Exhibit 1 ..... | 6 |
| Police Interview           |   |

1 [REDACTED] - CONFIDENTIAL

2 A. No, sir, I do not.

3 Q. Do you remember that the police officers  
4 tape-recorded the statement with you?

5 A. Vaguely, yes.

6 Q. Do you remember how old you were when you  
7 met Jeffrey Epstein?

8 A. Sixteen or 17.

9 Q. Okay. And have you reviewed --

10 A. I may have been 15. I don't recall. I  
11 apologize.

12 Q. If you told the police officer 16, you  
13 were telling the truth?

14 A. At the time, they were fresh.

15 MR. PAGLIUCA: Object to form and  
16 foundation.

17 THE WITNESS: The facts were fresh at the  
18 time. But 12 years later, I don't recall.

19 MR. PAGLIUCA: If you can just do a little  
20 pause in between his question and your answer.  
21 I need an opportunity to object to any form or  
22 foundation problem with his question.

23 THE WITNESS: Sure.

24 MR. PAGLIUCA: It helps the court reporter  
25 if the three of us are not talking at the same

1 [REDACTED] - CONFIDENTIAL

2 THE WITNESS: I do remember having several  
3 conversations about Bill Clinton and others.

4 BY MR. EDWARDS:

5 Q. What do you remember saying about Bill  
6 Clinton?

7 A. They went on a trip to Africa with Kevin  
8 Spacey and that it really -- there was nothing  
9 specific about Bill Clinton other than I think it  
10 was a trip where they -- it was very vague. It was  
11 implied that they enjoyed themselves, however that  
12 was.

13 There were specific things said about  
14 Spacey, but I cannot recall anything about Clinton.

15 Q. Okay. After speaking to the police or  
16 while speaking to the police, do you remember  
17 telling them that you're not safe because you're  
18 talking about this?

19 MR. PAGLIUCA: Object to form and  
20 foundation.

21 THE WITNESS: Yes.

22 BY MR. EDWARDS:

23 Q. And that you had heard Jeffrey Epstein  
24 making threats to people on the telephone?

25 MR. PAGLIUCA: Object to form and

1 [REDACTED] - CONFIDENTIAL

2 foundation.

3 THE WITNESS: Yes. He wasn't always  
4 friendly.

5 BY MR. EDWARDS:

6 Q. What type of threats do you remember  
7 hearing Jeffrey Epstein make to anyone?

8 A. Nothing specific. I do remember hostile  
9 conversations where he was upset with people, and I  
10 assumed that it was business and none of my  
11 business.

12 Q. Okay. You were asked by the detectives,  
13 "Things like, You're going to die; you're going to  
14 break your legs." And your response was: "All of  
15 the above."

16 MR. PAGLIUCA: Objection.

17 BY MR. EDWARDS:

18 Q. Do you remember those type of things?

19 MR. PAGLIUCA: Object to form and  
20 foundation.

21 THE WITNESS: Not specifically, no.

22 BY MR. EDWARDS:

23 Q. Do you remember where you were when you  
24 heard these conversations?

25 A. Most of the time he was on the phone when

1 [REDACTED] - CONFIDENTIAL

2 CERTIFICATE OF OATH

3 STATE OF FLORIDA )

4 COUNTY OF MIAMI-DADE )

5

6 I, the undersigned authority, certify that  
[REDACTED] personally appeared before me and  
was duly sworn.

7 WITNESS my hand and official seal this  
23rd day of June, 2016.

8

9

10 Kelli Ann Willis, RPR, CRR  
Notary Public, State of Florida  
Commission FF928291, Expires 2-16-20

11 + + + + + + + + + + + + + + + +

12 CERTIFICATE

13 STATE OF FLORIDA )

14 COUNTY OF MIAMI-DADE )

15 I, Kelli Ann Willis, Registered  
Professional Reporter and Certified Realtime  
16 Reporter do hereby certify that I was  
authorized to and did stenographically report the  
17 foregoing deposition of [REDACTED]; that a  
review of the transcript was not requested; and  
18 that the transcript is a true record of my  
stenographic notes.

19 I FURTHER CERTIFY that I am not a  
relative, employee, attorney, or counsel of any  
20 of the parties, nor am I a relative or employee of  
any of the parties' attorney or counsel connected  
21 with the action, nor am I financially interested  
in the action.

22 Dated this 23rd day of June, 2016.

23

24 KELLI ANN WILLIS, RPR, CRR

25



**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 ALL WORK PRODUCT AND ATTORNEY  
CLIENT COMMUNICATIONS WITH PHILIP BARDEN**

Meredith Schultz  
BOIES, SCHILLER & FLEXNER LLP  
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(954) 356-0011

Plaintiff Virginia Giuffre, argued in her Opposition to Summary Judgment that Defendant had waived her attorney-client and work-product privilege by submitting a lengthy self-serving affidavit by her attorney Philip Barden in support of her motion for Summary Judgment that discussed Mr. Barden's "intent" in allegedly being the main drafter of Defendant's January 2, 2015 press release. (DE 586 at p. 34) In Reply, Defendant conceded that in submitting Barden's declaration, she had waived the work-product privilege, but denied a waiver of the attorney-client privilege. (DE 620 at p. 11) Despite admitting that Mr. Barden waived the work-product privilege, Defendant failed to produce all other work product documents. This Motion seeks production of those documents along with production of all documents previously withheld on the ground of attorney-client privilege because those, too, were waived by Defendant's approval to submit Mr. Barden's self-serving declaration in support of Summary Judgment. Specifically, Ms. Giuffre, hereby moves this Court to Order Defendant to produce all work product documents (including any internal e-mail communications) and all attorney-client communications she has had with her attorney, Philip Barden, relating to his representation of her, as well as all documents drafted, edited, or considered by Philip Barden in relation to his representation of Ghislaine Maxwell, which would include, but not be limited to, those privileged documents Defendant listed on her privilege log and order Mr. Barden to sit for his deposition in New York relating to the subject matter of his waiver. *See* Schultz Dec. at Composite Exhibit 1.

## **I. BACKGROUND**

In her Motion for Summary Judgment, Defendant relies on a *post hoc*, self-serving Declaration ("Barden Declaration") from her English attorney Philip Barden. *See* Schultz Dec at Exhibit 2, Barden Declaration. Both the Declaration and the briefing for which it was drafted

reference Barden's "intent" (and other synonymous phrases) regarding his legal advice to Defendant *at least 62 times*. The Declaration also reveals attorney client legal advice given to Defendant, such as:

"I did not ask Ms. Maxwell to respond point by point...what we needed to do was..."  
(...)

Moreover, throughout (1) the Barden Declaration; (2) Defendant's summary judgment briefing; and (3) Defendant's attorney's statements at oral argument heard on February 16, 2017, Defendant represented to this Court that Barden issued the defamatory statement to the press. Defendant repeatedly made that false statement despite the fact that the documents show that Defendant authorized the statement and gave express approval to her press agent to publish the press release – not Barden – with Barden nowhere to be found on any of these communications. Defendant persists with this false representation not only despite the documents that prove otherwise, but also despite the fact that Defendant's press agent's sworn testimony states otherwise. Ross Gow testified that Defendant authorized the statement, "command[ed]" him to release it, and that Barden was wholly out of the loop during the lead up to Defendant's decision to publish her defamatory statement. Gow's testimony is backed up by the email communications among Defendant and Gow. Yet, despite both documentary and testimonial evidence that *Barden did not issue the defamatory statement to the press*, Defendant persists in making these representations to the Court. By submitting Barden's declaration, Defendant has clearly waived the privilege.

As the Court will recall, Defendant has claimed a privilege in this litigation as to all email communications between herself and Barden, claiming attorney-client privilege, a privilege that this Court explicitly upheld. *See* DE 135 March 2, 2016 Opinion Granting in Part and Denying in Part Plaintiff's Motion to Compel for Improper Claim of Privilege.

Significantly, Defendant attempts to blame the defamatory press release entirely on Barden. Giving false testimony at her deposition, in an evasive manner, Defendant said ***Barden was the one who actually released the defamatory statement***, pretending that she had nothing to do with it at all:

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

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. 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* Schultz Dec., Exhibit 3, Maxwell Depo. Tr. at 201:8-202:11.

Because of this denial in her sworn testimony (which was plainly untrue), Ms. Giuffre sought to depose her press agent to establish that Defendant (not her attorney or anyone else) authorized the release of the defamatory statement.

Months later, on the eve of his deposition, Ross Gow produced the “smoking gun” email in which Defendant explicitly “command[ed]” him to publish the defamatory statement. *See* Schultz Dec. at Exhibit 4, Defendant’s Email to Gow Authorizing Press Release. (As the Court is aware, Defendant defied this Court’s Order in her refusal to produce this email she sent Gow, despite it being responsive to multiple requests for production, and containing six court-ordered search terms.)

The next day, Gow testified that Defendant authorized the release of the defamatory material, and that Barden was not part of their discussions in the lead-up to its release. The documentary evidence – the emails exchanged between Defendant and Gow – supports this testimony:

Q. The subject line does have “FW” which to me indicates it’s a forward. Do you know where the rest of this email chain is?

A. My understanding of this is: It was a holiday in the UK, but *Mr. Barden was not necessarily accessible* at some point in time, so *this had been sent to him originally by Ms. Maxwell, and because he was unavailable, she forwarded it to me for immediate action*. I therefore respond, “Okay, Ghislaine, I’ll go with this.”

See Schultz Dec. at Exhibit 5, Gow Depo Tr. at 44:24-45:8

## II. LEGAL ARGUMENT

### A. Defendant Must Produce All Documents And Communications Relating to the Waived Work Product And Sit For A Deposition.

“The work-product doctrine is waived when documents are voluntarily shared with an adversary or when a party possessing the documents seeks to selectively present the materials to prove a point, but then attempts to invoke the privilege to prevent an opponent from challenging the assertion.” *Niagara Mohawk Power Corp. v. Stone & Webster Eng. Corp.*, 125 F.R.D. 578, 587 (S.D.N.Y.1989). “Generally, the work product privilege is waived when protected materials are disclosed in a manner which is either inconsistent with maintaining secrecy against opponents or substantially increases the opportunity for a potential adversary to obtain the protected information.” *Id.* at 590. Additionally, “[t]he work product privilege is waived when a party to a lawsuit uses it in an unfair way that is inconsistent with the principles underlying the doctrine of privilege. It is well settled that waiver may be imposed when the privilege-holder has attempted to use the privilege as both ‘sword’ and ‘shield.’” *Granite Partners, L.P. v. Bear Stearns & Co. Inc.*, 184 F.R.D. 49, 54 (S.D.N.Y.1999) (Sweet, D.J.); see also *Coleco Indus., Inc.*

*v. Universal City Studios, Inc.*, 110 F.R.D. 688, 691 (S.D.N.Y.1986) (Sweet, D.J.)

(“[Defendant’s] affidavit and attached work product were proffered as a ‘testimonial use’ of materials otherwise privileged. Fairness requires that discovery not be limited only to those documents which have selectively been disclosed.”).

When a party voluntarily waives its work product privilege in an attempt to use her attorney’s work product to her advantage, the party must also produce all related documents including drafts, e-mail communications relating to the work product, documents considered relating to the work product and any other materials created, received, used or considered relating in any way to Ms. Giuffre or this litigation, which is the very subject-matter of the disclosed work-product. *See, e.g., Hickman v. Taylor*, 329 U.S. 495, 511, 67 S. Ct. 385, 393, 91 L. Ed. 451 (1947) (work product includes “interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways”); *Comprehensive Habilitation Servs., Inc. v. Commerce Funding Corp.*, 240 F.R.D. 78, 87 (S.D.N.Y. 2006) (partial waiver of work product demanded waiver of all work-product related to the subject matter of the initial disclosure); *Coleco Indus., Inc. v. Universal City Studios, Inc.*, 110 F.R.D. 688 (S.D.N.Y. 1986) (finding defendant waived work-product privilege in disclosing documents that contained legal opinion of defendant's attorney in order to show reliance on attorney's advice, which also waived privilege for other documents containing work product on same issue); *cf. In re Sealed Case*, 676 F.2d 793, 817–18 (D.C. Cir. 1982) (disclosure required “when a party seeks greater advantage from its control over work product than the law must provide to maintain a healthy adversary system”).

As explained above, Defendant admitted in her reply brief to waiving the work product privilege with respect to Mr. Barden’s work for the Defendant relating to the issues in this case,

yet has failed to produce any of the related documents. Accordingly, Ms. Giuffre respectfully requests that this Court direct the Defendant to produce all work product documents, including but not limited to all drafts, e-mail communications relating to the work product, documents considered relating to the work product and any other materials created, received, used or considered that relate in any way to this litigation or Ms. Giuffre and direct Mr. Barden to sit for his deposition in New York.

**B. Defendant Waived Her Attorney Client Privilege By Submitting the Barden Declaration In Support of Her Motion for Summary Judgement.**

Just as with the work-product privilege, the attorney-client privilege cannot be used as a sword and a shield. *See, e.g., United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991) (“attorney-client privilege cannot at once be used as a shield and a sword”); *McGrath v. Nassau County Health Care Corp.*, 204 F.R.D. 240, 245 (E.D.N.Y.2001) (attorney-client privilege and work-product privilege are governed by the “same fairness concerns”); *Granite Partners*, 184 F.R.D. at 54 (Sweet J.) (“waiver may be invoked where ‘a litigant makes selective use of privileged materials, for example, by releasing only those portions of the material that are favorable to his position, while withholding unfavorable portions.’” (internal citations omitted)).

The Second Circuit has held that “the [attorney-client] privilege may be implicitly waived when [a party] asserts a claim that in fairness requires examination of protected communications.” *Bilzerian*, 926 F.2d at 1292. Thus, “even if the privilege holder does not attempt to make use of the privileged communication[,], he may waive the privilege if he makes factual assertions the truth of which can only be assessed by examination of the privileged communication.” *In re Kidder Peabody Secs. Litig.*, 168 F.R.D. 459, 470 (S.D.N.Y. 1996).

Moreover, countless district courts have found that the filing of privileged communications also waives the attorney-client privilege. *See Curto v. Med. World Commc'ns*,

*Inc.*, 783 F. Supp. 2d 373, 380 (E.D.N.Y. 2011) (waiver where party filed attorney-client communications on “publically-accessible electronic docket” and voluntarily sent copy to opposing counsel); *accord First Am. CoreLogic, Inc. v. Fiserv, Inc.*, 2010 WL 4975566, at \*2 (E.D.Tex. Dec. 2, 2010) (finding waiver of attorney-client privilege when party attached privileged communications to motion for protective order and served the documents on all parties); *Tardiff v. Knox Cnty.*, 2007 WL 2413033, at \*\*1–2 (D.Me. Aug. 21, 2007) (noting party's concession of waiver of attorney-client privilege when party submitted privileged email communications as an exhibit to court filing); *Malkovich v. Best Buy Enter. Servs., Inc.*, 2006 WL 1428228, at \*1 (D. Minn. May 22, 2006) (“By submitting the affidavit and accompanying exhibits, Plaintiff has waived the attorney-client privilege....”).

Defendant has withheld communications between herself and her attorney Mr. Barden on the basis of “attorney-client privilege.” That privilege was waived by her affirmative submission of Mr. Barden’s declaration which included references to attorney-client communications between Maxwell and Mr. Barden. Accordingly, all communications, whether they are logged or not, between Defendant and Mr. Barden and any related communications Defendant has withheld from production based on a claim of attorney-client privilege must be produced and the Court direct Mr. Barden to sit for a deposition in New York regarding this subject matter.

As articulated in Ms. Giuffre’s Response in Opposition to Defendant’s Motion for Summary Judgment, if the Court were to consider the Barden Declaration (which it should not), it would be ruling on a less than complete record because, based on this Declaration, it is necessary that Defendant disclose all communications with him and possibly others. Ms. Giuffre doesn’t have those communications, the Court doesn’t have those communications. It is highly prejudicial to allow Defendant to attempt to take advantage of a work product waiver through the



submission of Mr. Barden's declaration without producing **all** related work product documents and communications. As of yet, she has produced none.

### III. CONCLUSION

Ms. Giuffre respectfully requests the following relief: (1) As a result of the admitted waiver of the work-product privilege, the Court direct the Defendant and all parties she controls including Mr. Barden, to produce within ten (10) days all work product documents, including but not limited to all drafts, e-mail communications relating to the work product, documents considered relating to the work product and any other materials created, received, used or considered that relate in any way to this litigation or Ms. Giuffre and direct Mr. Barden to sit for a deposition in New York on this subject matter; and (2) As a result of submitting the Barden Declaration containing legal advice affirmatively in support of Defendant's Motion for Summary Judgment, the Court direct the Defendant, and all parties she controls including Mr. Barden, to produce within ten (10) days, all communications, whether they are logged or not, between Defendant and Mr. Barden and any related communications for which Defendant has withheld from production based on a claim of attorney client privilege and direct Mr. Barden to sit for a deposition in New York on this subject matter.

Dated: February 22, 2017

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Meredith Schultz  
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---

<sup>1</sup> 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 the 22nd of February, 2017, 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 this day on the individuals identified below via transmission of Notices of Electronic Filing generated by CM/ECF.

Laura A. Menninger, Esq.  
Jeffrey Pagliuca, Esq.  
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[jpagliuca@hmflaw.com](mailto:jpagliuca@hmflaw.com)

/s/ Meredith Schultz  
Meredith Schultz

**CERTIFICATE OF CONFERRAL**

Undersigned counsel certifies that she raised the failure to produce issue in opposition to Defendant's Summary Judgment and also raise it at oral argument with the Court. To date, Defendant has not produced any of the documents relating to her waiver of the work product or attorney client privilege.

/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 MEREDITH SCHULTZ IN SUPPORT OF  
PLAINTIFF'S MOTION TO COMPEL ALL WORK PRODUCT AND ATTORNEY  
CLIENT COMMUNICATIONS WITH PHILIP BARDEN**

I, Meredith Schultz, declare that the below is true and correct to the best of my knowledge as follows:

1. I am a Counsel 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 Communication All Work Product and Attorney Client Communications with Philip Barden.
3. Attached hereto as Sealed Composite Exhibit 1 is a true and correct copy of Defendant's February 9, 2016; May 16, 2016; and August 1, 2016 Privilege Log.
4. Attached hereto as Sealed Exhibit 2 is a true and correct copy of January 6, 2017, Declaration of Philip Barden.
5. Attached hereto as Sealed Exhibit 3 is a true and correct copy of Excerpts from April 22, 2016, Deposition of Ghislaine Maxwell.
6. Attached hereto as Sealed Exhibit 4 is a true and correct copy of January 2, 2015, E-mail Correspondence (RG(UK)\_00009).

7. Attached hereto as Sealed Exhibit 5 is a true and correct copy of Excerpts from November 18, 2016, Deposition of Ross Gow.

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

/s/ Meredith Schultz  
Meredith Schultz, Esq.

Dated: February 22, 2017.

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Meredith Schultz

Meredith Schultz (Pro Hac Vice)  
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---

<sup>1</sup> 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 the 22nd day of February, 2017, 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.  
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/s/ Meredith Schultz  
Meredith Schultz



COMPOSITE  
EXHIBIT 1  
(FILE UNDER SEAL)

United States District Court  
For The Southern District of New York

*Giuffre v. Maxwell*  
15-cv-07433-RWS

\*\*\*Per Local Rule 26.2, the following privileges are asserted pursuant to British law, Colorado law and NY law.

| DATE                       | DOC. TYPE | FROM                | TO                                        | CC           | RELATIONSHIP OF PARTIES   | SUBJECT MATTER                 | PRIVILEGE                    |
|----------------------------|-----------|---------------------|-------------------------------------------|--------------|---------------------------|--------------------------------|------------------------------|
| 2011.03.15                 | E-Mails   | Ghislaine Maxwell   | Brett Jaffe, Esq.                         |              | Attorney / Client         | Communication re: legal advice | Attorney-Client              |
| 2011.03.15                 | E-Mails   | Brett Jaffe, Esq.   | Ghislaine Maxwell                         |              | Attorney / Client         | Communication re: legal advice | Attorney-Client              |
| 2015.01.02                 | E-Mails   | Ross Gow            | Ghislaine Maxwell                         |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client              |
| 2015.01.02                 | E-Mail    | Ghislaine Maxwell   | Ross Gow                                  |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client              |
| 2015.01.02                 | E-Mail    | Ross Gow            | Ghislaine Maxwell                         | Brian Basham | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client              |
| 2015.01.06                 | E-Mail    | Ghislaine Maxwell   | Jeffrey Epstein                           |              | Common Interest           | Communication re: legal advice | Common Interest              |
| 2015.01.06                 | E-Mail    | Ghislaine Maxwell   | Jeffrey Epstein,<br>Alan Dershowitz, Esq. |              | Attorney / Client         | Communication re: legal advice | Common Interest              |
| 2015.01.10                 | E-Mail    | Ghislaine Maxwell   | Philip Barden, Esq.,<br>Ross Gow          |              | Attorney / Client         | Communication re: legal advice | Attorney-Client              |
| 2015.01.10                 | E-Mail    | Ghislaine Maxwell   | Philip Barden, Esq.                       |              | Client / Attorney         | Communication re: legal advice | Attorney-Client              |
| 2015.01.09<br>2015.01.10   | E-Mails   | Ross Gow            | Philip Barden, Esq.                       | G. Maxwell   | Agent / Attorney / Client | Communication re: legal advice | Attorney-Client              |
| 2015.01.11                 | E-Mail    | Ghislaine Maxwell   | Jeffrey Epstein                           |              | Common Interest           | Communication re: legal advice | Common Interest              |
| 2015.01.11                 | E-Mail    | Philip Barden, Esq. | Ross Gow                                  | G. Maxwell   | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client              |
| 2015.01.11                 | E-Mail    | Philip Barden, Esq. | Ghislaine Maxwell                         | Ross Gow     | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client              |
| 2015.01.11 –<br>2015.01.17 | E-Mails   | Jeffrey Epstein     | Ghislaine Maxwell                         |              | Common Interest           | Communication re: legal advice | Common Interest<br>Privilege |

| DATE                       | DOC. TYPE | FROM                | TO                                        | CC         | RELATIONSHIP OF PARTIES   | SUBJECT MATTER                 | PRIVILEGE                 |
|----------------------------|-----------|---------------------|-------------------------------------------|------------|---------------------------|--------------------------------|---------------------------|
| 2015.01.13                 | E-Mail    | Ghislaine Maxwell   | Jeffrey Epstein                           |            | Common Interest           | Communication re: legal advice | Common Interest Privilege |
| 2015.01.13                 | E-Mail    | Philip Barden, Esq. | Martin Weinberg, Esq.                     |            | Common Interest           | Communication re: legal advice | Common Interest Privilege |
| 2015.01.13                 | E-Mails   | Philip Barden, Esq. | Ghislaine Maxwell                         | Mark Cohen | Attorney / Client         | Communication re: legal advice | Attorney-Client           |
| 2015.01.21                 | E-Mail    | Ross Gow            | Philip Barden, Esq.,<br>Ghislaine Maxwell |            | Agent / Attorney / Client | Communication re: legal advice | Attorney-Client           |
| 2015.01.21 -<br>2015.01.27 | E-Mails   | Jeffrey Epstein     | Ghislaine Maxwell                         |            | Common Interest           | Communication re: legal advice | Common Interest Privilege |
| 2015.01.21-<br>2015.01.27  | E-Mails   | Ghislaine Maxwell   | Jeffrey Epstein                           |            | Common Interest           | Communication re: legal advice | Common Interest Privilege |

United States District Court  
For The Southern District of New York

*Giuffre v. Maxwell*  
15-cv-07433-RWS

Ghislaine Maxwell's Privilege Log Amended as of May 16, 2016

\*\*\*Per Local Rule 26.2, the following privileges are asserted pursuant to British law, Colorado law and NY law.

| Log ID | DATE                     | DOC. TYPE | BATES #   | FROM                | TO                                        | CC           | RELATIONSHIP OF PARTIES   | SUBJECT MATTER                 | PRIVILEGE       |
|--------|--------------------------|-----------|-----------|---------------------|-------------------------------------------|--------------|---------------------------|--------------------------------|-----------------|
| 1.     | 2011.03.15               | E-Mails   | 1000-1013 | Ghislaine Maxwell   | Brett Jaffe, Esq.                         |              | Attorney / Client         | Communication re: legal advice | Attorney-Client |
| 2.     | 2011.03.15               | E-Mails   | 1014-1019 | Brett Jaffe, Esq.   | Ghislaine Maxwell                         |              | Attorney / Client         | Communication re: legal advice | Attorney-Client |
| 3.     | 2015.01.02               | E-Mails   | 1020-1026 | Ross Gow            | Ghislaine Maxwell                         |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 4.     | 2015.01.02               | E-Mail    | 1024-1026 | Ghislaine Maxwell   | Ross Gow                                  |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 5.     | 2015.01.02               | E-Mail    | 1027-1028 | Ross Gow            | Ghislaine Maxwell                         | Brian Basham | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 6.     | 2015.01.06               | E-Mail    | 1029      | Ghislaine Maxwell   | Jeffrey Epstein                           |              | Common Interest           | Communication re: legal advice | Common Interest |
| 7.     | 2015.01.06               | E-Mail    | 1030-1043 | Ghislaine Maxwell   | Jeffrey Epstein,<br>Alan Dershowitz, Esq. |              | Attorney / Client         | Communication re: legal advice | Common Interest |
| 8.     | 2015.01.10               | E-Mail    | 1044      | Ghislaine Maxwell   | Philip Barden, Esq.,<br>Ross Gow          |              | Attorney / Client         | Communication re: legal advice | Attorney-Client |
| 9.     | 2015.01.10               | E-Mail    | 1045-1051 | Ghislaine Maxwell   | Philip Barden, Esq.                       |              | Client / Attorney         | Communication re: legal advice | Attorney-Client |
| 10.    | 2015.01.09<br>2015.01.10 | E-Mails   | 1052-1055 | Ross Gow            | Philip Barden, Esq.                       | G. Maxwell   | Agent / Attorney / Client | Communication re: legal advice | Attorney-Client |
| 11.    | 2015.01.11               | E-Mail    | 1055-1058 | Ghislaine Maxwell   | Jeffrey Epstein                           |              | Common Interest           | Communication re: legal advice | Common Interest |
| 12.    | 2015.01.11               | E-Mail    | 1055-1058 | Philip Barden, Esq. | Ross Gow                                  | G. Maxwell   | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client |
| 13.    | 2015.01.11               | E-Mail    | 1056-1058 | Philip Barden, Esq. | Ghislaine Maxwell                         | Ross Gow     | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client |

|     |                         |                               |                      |                                                    |                                                    |            |                                                    |                                                                                              |                                                  |
|-----|-------------------------|-------------------------------|----------------------|----------------------------------------------------|----------------------------------------------------|------------|----------------------------------------------------|----------------------------------------------------------------------------------------------|--------------------------------------------------|
| 14. | 2015.01.11 – 2015.01.17 | E-Mails                       | 1059-1083            | Jeffrey Epstein                                    | Ghislaine Maxwell                                  |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                        |
| 15. | 2015.01.13              | E-Mail                        | 1067-1073            | Ghislaine Maxwell                                  | Jeffrey Epstein                                    |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                        |
| 16. | 2015.01.13              | E-Mail                        | 1069-1073, 1076-1079 | Philip Barden, Esq.                                | Martin Weinberg, Esq.                              |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                        |
| 17. | 2015.01.13              | E-Mails                       | 1068-1069, 1074-1076 | Philip Barden, Esq.                                | Ghislaine Maxwell                                  | Mark Cohen | Attorney / Client                                  | Communication re: legal advice                                                               | Attorney-Client                                  |
| 18. | 2015.01.21              | E-Mail                        | 1088-1090            | Ross Gow                                           | Philip Barden, Esq., Ghislaine Maxwell             |            | Agent / Attorney / Client                          | Communication re: legal advice                                                               | Attorney-Client                                  |
| 19. | 2015.01.21 - 2015.01.27 | E-Mails                       | 1084-1098            | Jeffrey Epstein                                    | Ghislaine Maxwell                                  |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                        |
| 20. | 2015.01.21- 2015.01.27  | E-Mails                       | 1099                 | Ghislaine Maxwell                                  | Jeffrey Epstein                                    |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                        |
| 21. | 2015.04.22              | E-mail                        | 7 pages              | Jeffrey Epstein                                    | Ghislaine Maxwell                                  |            | Common Interest                                    | Forwarding message from Martin Weinberg, labeled "Attorney-Client Privilege" with attachment | Common Interest Privilege                        |
| 22. | Various                 | E-mails                       |                      | Agent of Haddon, Morgan & Foreman; Laura Menninger | Agent of Haddon, Morgan & Foreman; Laura Menninger |            | Agent of attorney and Attorney                     | Attorney work product                                                                        | Attorney Work Product                            |
| 23. | Various                 | E-mails                       |                      | Mary Borja; Laura Menninger                        | Mary Borja; Laura Menninger                        |            | Attorney Work Product                              | Attorney work product                                                                        | Attorney Work Product                            |
| 24. | 2015.10.21 – 2015.10.22 | E-mail chain with attachments |                      | Darren Indyke; Laura Menninger                     | Darren Indyke; Laura Menninger                     |            | Attorneys for parties to Common Interest Agreement | Common Interest Agreement                                                                    | Attorney Work Product; Common Interest Privilege |

United States District Court  
For The Southern District of New York

*Giuffre v. Maxwell*  
15-cv-07433-RWS

Ghislaine Maxwell's Privilege Log Amended as of August 1, 2016

\*\*\*Per Local Rule 26.2, the following privileges are asserted pursuant to British law, Colorado law and NY law.

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| 2.     | 2011.03.15              | E-Mails   | 1014-1019 | Brett Jaffe, Esq.   | Ghislaine Maxwell                      |              | Attorney / Client         | Communication re: legal advice | Attorney-Client |
| 3.     | 2015.01.02              | E-Mails   | 1020-1026 | Ross Gow            | Ghislaine Maxwell                      |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 4.     | 2015.01.02              | E-Mail    | 1024-1026 | Ghislaine Maxwell   | Ross Gow                               |              | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 5.     | 2015.01.02              | E-Mail    | 1027-1028 | Ross Gow            | Ghislaine Maxwell                      | Brian Basham | Attorney Agent / Client   | Communication re: legal advice | Attorney-Client |
| 6.     | 2015.01.06              | E-Mail    | 1029      | Ghislaine Maxwell   | Jeffrey Epstein                        |              | Common Interest           | Communication re: legal advice | Common Interest |
| 7.     | 2015.01.06              | E-Mail    | 1030-1043 | Ghislaine Maxwell   | Jeffrey Epstein, Alan Dershowitz, Esq. |              | Attorney / Client         | Communication re: legal advice | Common Interest |
| 8.     | 2015.01.10              | E-Mail    | 1044      | Ghislaine Maxwell   | Philip Barden, Esq., Ross Gow          |              | Attorney / Client         | Communication re: legal advice | Attorney-Client |
| 9.     | 2015.01.10              | E-Mail    | 1045-1051 | Ghislaine Maxwell   | Philip Barden, Esq.                    |              | Client / Attorney         | Communication re: legal advice | Attorney-Client |
| 10.    | 2015.01.09 - 2015.01.10 | E-Mails   | 1052-1055 | Ross Gow            | Philip Barden, Esq.                    | G. Maxwell   | Agent / Attorney / Client | Communication re: legal advice | Attorney-Client |
| 11.    | 2015.01.11              | E-Mail    | 1055-1058 | Ghislaine Maxwell   | Jeffrey Epstein                        |              | Common Interest           | Communication re: legal advice | Common Interest |
| 12.    | 2015.01.11              | E-Mail    | 1055-1058 | Philip Barden, Esq. | Ross Gow                               | G. Maxwell   | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client |
| 13.    | 2015.01.11              | E-Mail    | 1056-1058 | Philip Barden, Esq. | Ghislaine Maxwell                      | Ross Gow     | Attorney / Agent / Client | Communication re: legal advice | Attorney-Client |

|     |                         |                              |                      |                                                    |                                                    |            |                                                    |                                                                                              |                                                      |
|-----|-------------------------|------------------------------|----------------------|----------------------------------------------------|----------------------------------------------------|------------|----------------------------------------------------|----------------------------------------------------------------------------------------------|------------------------------------------------------|
| 14. | 2015.01.11 - 2015.01.17 | E-Mails                      | 1059-1083            | Jeffrey Epstein                                    | Ghislaire Maxwell                                  |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                            |
| 15. | 2015.01.13              | E-Mail                       | 1067-1073            | Ghislaire Maxwell                                  | Jeffrey Epstein                                    |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                            |
| 16. | 2015.01.13              | E-Mail                       | 1069-1073, 1076-1079 | Philip Barden, Esq.                                | Martin Weinberg, Esq.                              |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                            |
| 17. | 2015.01.13              | E-Mails                      | 1068-1069, 1074-1076 | Philip Barden, Esq.                                | Ghislaire Maxwell                                  | Mark Cohen | Attorney / Client                                  | Communication re: legal advice                                                               | Attorney-Client                                      |
| 18. | 2015.01.21              | E-Mail                       | 1088-1090            | Ross Gow                                           | Philip Barden, Esq., Ghislaire Maxwell             |            | Agent / Attorney / Client                          | Communication re: legal advice                                                               | Attorney-Client                                      |
| 19. | 2015.01.21 - 2015.01.27 | E-Mails                      | 1084-1098            | Jeffrey Epstein                                    | Ghislaire Maxwell                                  |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                            |
| 20. | 2015.01.21 - 2015.01.27 | E-Mails                      | 1099                 | Ghislaire Maxwell                                  | Jeffrey Epstein                                    |            | Common Interest                                    | Communication re: legal advice                                                               | Common Interest Privilege                            |
| 21. | 2015.04.22              | E-mail                       | 7 pages              | Jeffrey Epstein                                    | Ghislaire Maxwell                                  |            | Common Interest                                    | Forwarding message from Martin Weinberg, labeled "Attorney-Client Privilege" with attachment | Common Interest Privilege                            |
| 22. | Various                 | E-mails                      |                      | Agent of Haddon, Morgan & Foreman; Laura Menninger | Agent of Haddon, Morgan & Foreman; Laura Menninger |            | Agent of attorney and Attorney                     | Attorney work product                                                                        | Attorney Work Product                                |
| 23. | Various                 | E-mails                      |                      | Mary Borja; Laura Menninger                        | Mary Borja; Laura Menninger                        |            | Attorney Work Product                              | Attorney work product                                                                        | Attorney Work Product                                |
| 24. | 2015.10.21 - 2015.10.22 | E-mail chain with attachment |                      | Darren Indyke; Laura Menninger                     | Darren Indyke; Laura Menninger                     |            | Attorneys for parties to Common Interest Agreement | Common Interest Agreement                                                                    | Attorney Work Product; Common Interest Privilege     |
| 25. | 2015.01.06              |                              |                      |                                                    |                                                    |            | Attorney/Client                                    | Document prepared by Ghislaire Maxwell at the direction of Philip Barden                     | Attorney Work Product; Attorney-Client Communication |





**EXHIBIT 2**  
**(File Under Seal)**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
VIRGINIA L. GIUFFRE,  
Plaintiff,  
v.  
GHISLAINE MAXWELL,  
Defendant.  
-----A

15-cv-07433-RWS

**Declaration of Philip Barden**

I, Philip Barden, declare as follows:

1. I am a Solicitor of the Senior Courts of England & Wales based in London, England.
2. I am submitting this Declaration in support of Ghislaine Maxwell's motion for summary judgment in this action.
3. I am not authorised to and do not waive Ms. Maxwell's attorney-client privilege.
4. I have represented Ms. Maxwell since 2011 regarding the allegations made by Plaintiff Virginia Giuffre and as published in the United Kingdom. I continue to be retained in this regard. I am familiar generally with the subject matter of this action.
5. I first represented Ms. Maxwell in this matter over the weekend of 5<sup>th</sup> and 6<sup>th</sup> March 2011, about the time when various UK national newspapers, in hard copy and on line, published numerous and provocative allegations made by the Plaintiff Virginia Giuffre against Ms. Maxwell. The articles by Sharon Churcher were among those published in this time frame.
6. I instructed British press agent Ross Gow to assist me in representing Ms. Maxwell.

7. I caused to be prepared a statement to respond to the articles that appeared in the British Press over the weekend—March 5 and 6, 2011, and thereafter. I directed Mr. Gow to distribute the statements to various media outlets that had published articles.

8. On December 30, 2014, Ms. Giuffre made numerous salacious and improper allegations against Ms. Maxwell in a joinder motion publicly filed in a civil case involving Jeffrey Epstein. Shortly afterward, the British media gained access to the motion and began inquiring about Ms. Maxwell's response.

9. I continued to represent Ms. Maxwell at that time and I coordinated the response to the media. I again instructed Mr. Gow to assist me.

10. In liaison with Mr. Gow and my client, on January 2, 2015, I prepared a further statement denying the allegations, and I instructed Mr. Gow to transmit it via email to members of the British media who had made inquiry about plaintiff's allegations about Ms. Maxwell. Attached as Exhibit A1 is an email containing a true and correct copy of this statement. The statement was issued on my authority. Although it is possible others suggested or contributed content, I prepared the vast majority of the statement and ultimately approved and adopted all of the statement as my work.

11. As is evident from the timing and the typographical errors in the statement, I prepared the statement in haste. I was not in the office on 2<sup>nd</sup> January 2015 as it was the Friday immediately after New Years day which is a public holiday. Most people took 2<sup>nd</sup> January off and many business closed that day. I don't now recall where I was that day but I was hard to reach and that indicates I was out with my family. I therefore would have prepared the statement in a hurry. I recall that I wanted to get a statement out as a matter of urgency.

12. I recall that immediately after Ms. Giuffre's motion was filed, media representatives began contacting Mr. Gow and requesting Ms. Maxwell's response to Ms. Giuffre's allegations

of criminal and other misconduct by Ms. Maxwell. I believed an immediate response was imperative, even though this was happening in the midst of the holidays in the United Kingdom. My communications with Mr. Gow and with Ms. Maxwell were sporadic, delayed and hurried because of my and their own holiday schedules. I worked while on vacation and on Friday, January 2, 2015, to ensure that the statement was issued as soon as possible after receiving the media inquiries.

13. I did not ask Ms. Maxwell to respond point by point to Ms. Giuffre's factual allegations in the CVRA joinder motion. What we needed to do was issue an immediate denial and that necessarily had to be short and to the point. It should have been obvious to the media that Ms. Giuffre's new and significantly more salacious allegations had no credibility because they differed so substantially from her previous allegations, when she had the opportunity and incentive to disclose all relevant facts about being a victim of alleged sexual abuse and sex trafficking at the hands of the rich and powerful. I prepared the January 2015 statement based on my knowledge of Ms. Giuffre's past statements and her most recent statements in the joinder motion, and made the point to the media-recipients that she and her new statements, which differed so substantially from her former ones, were not credible—specifically, that the new allegations were patently false—i.e., “obvious lies.”

14. By way of example I recall that prior to the December 2014 filing of the joinder motion and the subsequent press reports that Ms. Guiffre clearly stated she had not had sex with Prince Andrew. Yet in her joinder motion she claimed she did have sex with Prince Andrew and that the sex occurred in what can only be described as a very small bathtub, too small for a man of Prince Andrew's size to enjoy a bath in let alone sex. So as of December 2014 it was clear Ms. Guiffre had made polar opposite statements. She was either lying when she said they did not have sex or when she said they did. I made the inescapable inference that she is a liar, as clearly

she is, since both statements cannot as a matter of fact be true. When someone says she did not have sex and then says she did, in other words, there is an obvious lie.

15. I did not intend the January 2015 statement as a traditional press release solely to disseminate information to the media. This is why I intentionally did not request that Mr. Gow or any other public relations specialist prepare or participate in preparing the statement. Instead, Mr. Gow served as my conduit to the media representatives who had requested a response to the joinder motion allegations and who I believed might republish those allegations.

16. My purpose in preparing and causing the statement to be disseminated to those media representatives was twofold. First, I wanted to mitigate the harm to Ms. Maxwell's reputation from the press's republication of plaintiff's false allegations. I believed these ends could be accomplished by suggesting to the media that, among other things, they should subject plaintiff's allegations to inquiry and scrutiny. For example, I noted that plaintiff's allegations changed dramatically over time, suggesting that they are "obvious lies" and therefore should not be "publicised as news."

17. Second, I intended the January 2015 statement to be "a shot across the bow" of the media, which I believed had been unduly eager to publish plaintiff's allegations without conducting any inquiry of their own. This was the purpose of repeatedly stating that plaintiff's allegations were "defamatory." In this sense, the statement was very much intended as a cease and desist letter to the media-recipients, letting the media-recipients understand the seriousness with which Ms. Maxwell considered the publication of plaintiff's obviously false allegations and the legal indefensibility of their own conduct.

18. It is important to understand that any story involving a member of the Royal Family, especially a senior member such as Prince Andrew, gains huge media attention in the UK and a story alleging he had a sex with the Plaintiff caused a feeding frenzy for the press. I wanted the

press to stop and think before publishing, to cease and desist, and that if they continued then they faced higher damages for ignoring my clear warning.

19. Consistent with those two purposes, Mr. Gow's emails prefaced the statement with the following language: "Please find attached a *quotable statement* on behalf of Ms Maxwell" (italics supplied). The statement was intended to be a single, one-time-only, comprehensive response—quoted in full, if it was to be used—to plaintiff's December 30, 2014, allegations that would give the media Ms. Maxwell's response. The purpose of the prefatory statement was to inform the media-recipients of this intent.

20. Selective and partial quotation and use of the statement would disserve my purposes. It was intended to address Plaintiff's behavior and allegations against Ms. Maxwell on a broad scale, that is to say, Plaintiff's history of making false allegations and innuendo to the media against Ms. Maxwell. This is why the statement references Plaintiff's "original allegations" and points out that her story "changes"—i.e. is embellished—over time including the allegations "now" that Professor Dershowitz allegedly had sexual relations with her. This is why I distinguished in the statement between Plaintiff's "original" allegations and her "new," joinder-motion allegations, which differed substantially from the original allegations. And this is why I wrote, "Each time the story is *re told* [sic] it *changes* with *new* salacious details about public figures and world leaders and *now* it is alleged by [Plaintiff] that Alan Derschowitz [sic] is involved in having sexual relations with her, which he denies." (Emphasis supplied.) Having established the dramatic difference between Plaintiff's two sets of allegations, which suggested she was fabricating more and more-salacious allegations as she had more time to manufacture them, I added the third paragraph: "[Ms. Giuffre's] claims are obvious lies and should be treated as such and not publicised as news, as they are defamatory." (Emphasis supplied.) I believed then, and believe now, that it was and remains a fair inference and conclusion that her claims

were and are “obvious lies.” As noted, her claims not to have slept with Prince Andrew and to have slept with Prince Andrew are a classic example of an obvious lie. One or other account is on the face of it a lie.

21. As an example of her lack of credibility, the Plaintiff made allegations against Professor Dershowitz, which I understand she has now withdrawn. Professor Dershowitz has credibility because his story, insofar as I am familiar with it, has been consistent; Ms. Giuffre has no credibility because her story has shifted and changed.

22. Further the Plaintiff’s account has become more salacious, for example, regarding Prince Andrew. The Plaintiff clearly has been seeking publicity for her story and it is clear to me that she understands retelling the same story doesn’t feed the media and generate publicity and so each time she appears to create new allegations to generate media interest.

23. I understand the Plaintiff alleged in her Complaint in this action that the following statements are defamatory. She alleges it was defamatory in the first paragraph of the January 2015 statement to state that “the allegations made by [the Plaintiff] against [Ms.] Maxwell are untrue.” For the reasons stated above, it was and is my considered and firm opinion that, in fact, her allegations are untrue. She alleges it was defamatory to state in the same paragraph that the “original allegations” have been “shown to be untrue.” For the reasons stated above, it was and is my considered and firm opinion that, in fact, her allegations are untrue. Finally, she alleges that it was defamatory in the third paragraph to state that her claims are “obvious lies.” For the reasons stated above, it was and is my considered and firm opinion that, in fact, her claims are obvious lies.

24. Both Mr. Gow and I understood that once the January 2015 statement was sent to the media-representatives, we had no ability to control whether or how they would use the statement and we made no effort to control whether or how they would use the statement.

25. It is my understanding that some of the media-recipients of the January 2015 statement did not publish any part of the statement. I am unaware of any media-recipient publishing the statement in full.

26. The issuance of the statement fully complied with my ethical obligations as a lawyer. Indeed it was duty in representing my client's interests to ensure that a denial was immediately issued. I would have been remiss if I had sat back and not issued a denial, and the press had published that Ms. Maxwell had not responded to enquiries and had not denied the new allegations; the public might have taken the silence as an admission there was some truth in the allegations.

27. The content of the statement was entirely based on information I acquired in connection with my role as counsel for Ms. Maxwell.

28. At the time I directed the issuance of the statement, I was contemplating litigation against the press-recipients as an additional means to mitigate and prevent harm to Ms. Maxwell. Whilst the limitation period for a pure defamation claim has now expired, claims are still being considered for example for publishing a deliberate falsehood, conspiracy to inure and other tortious acts.

29. In any such UK defamation, or other related, action Ms. Giuffre would be a defendant or a witness.

30. I directed that the statement indicate Ms. Maxwell "strongly denie[d] the allegations of an unsavoury nature," declare the allegations to be false, give the press-recipients notice that the publications of the allegations "are defamatory," and inform them that Ms. Maxwell was "reserv[ing] her right to seek redress."



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

Executed on January 6, 2017.

A handwritten signature in black ink, appearing to read "Philip Barden", written in a cursive style.

---

Philip Barden

**EXHIBIT 3**  
**(File Under Seal)**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

VIRGINIA L. GIUFFRE,

Plaintiff,

Case No.:

-against-

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



1 G Maxwell - Confidential

2 underage?

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

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

12 MR. PAGLIUCA: Objection to the  
13 form and foundation.

14 Q. You can answer.

15 A. You need to reask me the question.

16 Q. Sure.

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

21 MR. PAGLIUCA: Objection to the  
22 form and foundation.

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

25 Q. I will ask it again and you can

1 G Maxwell - Confidential

2 listen carefully.

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

8 MR. PAGLIUCA: Objection to the  
9 form and foundation.

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

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

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

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

20 MR. PAGLIUCA: Objection to the  
21 form and foundation.

22 A. Can you ask the question again,  
23 please?

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

**EXHIBIT 4**  
**(File Under Seal)**

----- Forwarded message -----  
From: [REDACTED]  
Date: 2 January 2015 at 20:29  
Subject: Re: URGENT - this is the statement  
To: G Max <gmax1@ellmax.com>  
Cc: Philip Barden [REDACTED]

OK G going with this, thanks Philip.  
Sent from my BlackBerry® wireless device

---

From: G Maxwell <GMax1@ellmax.com>  
Date: Fri, 2 Jan 2015 20:14:53 +0000  
To: Ross Gow [REDACTED]  
Cc: Philip Barden [REDACTED]  
Subject: FW: URGENT - this is the statement

Jane Doe 3 is Virginia Roberts so not a new individual.

The allegations made by Victoria Roberts against Ghislaine Maxwell are untrue.

The original allegations are not new and have been fully responded to and shown to be untrue

Each time the story is re told it changes with new salacious details about public figures and world leaders and now it is alleged by Ms Roberts that Alan Derschwitz is involved in having sexual relations with her, which he denies

Ms Roberts claims are obvious lies and should be treated as such and not publicised as news, as they are defamatory.

**EXHIBIT 5**  
**(File Under Seal)**



ROSS NEIL SUTHERLAND GOW - 11/18/2016

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IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Claim No. CR 2016-624

BETWEEN:

VIRGINIA L. GIUFFRE Applicant,  
- and -  
ROSS GOW, Respondent.

AND:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Virginia L. Giuffre, )  
Plaintiff, )  
v. ) Case No. 15-cv-07433-RWS  
Ghislaine Maxwell, )  
Defendant. )

-----

Friday, November 18, 2016

AT: 8:27 a.m.

Taken at:

Essex Chambers 29,  
81 Chancery Lane,  
London, UK, WC2A 1DD

Court Reporter: Lisa Barrett, Accredited Real-time  
Reporter

|    |                                                         |          |
|----|---------------------------------------------------------|----------|
| 1  | 10 more seconds.                                        | 09:19:50 |
| 2  | MS. SCHULTZ: Understood, and I apologize.               | 09:19:52 |
| 3  | MR. SPEARMAN: This is what, Exhibit 9?                  | 09:19:54 |
| 4  | MR. DYER: Yes.                                          | 09:19:56 |
| 5  | MS. SCHULTZ: Yes.                                       | 09:19:56 |
| 6  | (Exhibit 9 was marked for identification.)              | 09:19:56 |
| 7  | BY MS. SCHULTZ:                                         | 09:20:01 |
| 8  | Q. This also appears to be an email chain with you      | 09:20:02 |
| 9  | and Ms. Maxwell; is that correct?                       | 09:20:05 |
| 10 | A. It does appear to be so.                             | 09:20:07 |
| 11 | Q. Did you send the top email of the chain that         | 09:20:08 |
| 12 | says "Okay, G, going with this"?                        | 09:20:10 |
| 13 | A. I did.                                               | 09:20:13 |
| 14 | Q. And did you receive from Ms. Maxwell, the            | 09:20:14 |
| 15 | bottom email of that chain?                             | 09:20:16 |
| 16 | A. I believe so. Well, I believe -- yes, yeah, it       | 09:20:17 |
| 17 | was forwarded from Ms. Maxwell, yes.                    | 09:20:21 |
| 18 | MR. DYER: Sorry, I don't quite understand that          | 09:20:29 |
| 19 | answer.                                                 | 09:20:31 |
| 20 | THE WITNESS: I misspoke that. I did receive             | 09:20:33 |
| 21 | it from Ms. Maxwell.                                    | 09:20:34 |
| 22 | MR. DYER: Okay.                                         | 09:20:38 |
| 23 | BY MS. SCHULTZ:                                         | 09:20:38 |
| 24 | Q. The subject line does have "FW" which to me          | 09:20:39 |
| 25 | indicates it's a forward. Do you know where the rest of | 09:20:42 |

1 this email chain is?

09:20:45

2 A. My understanding of this is: It was a holiday  
3 in the UK, but Mr. Barden was not necessarily accessible,  
4 at some point in time, so this had been sent to him  
5 originally by Ms. Maxwell, and because he was  
6 unavailable, she forwarded it to me for immediate action.  
7 I therefore respond, "Okay, Ghislaine, I'll go with  
8 this."

09:20:49

09:20:54

09:20:59

09:21:03

09:21:07

09:21:14

09:21:19

9 It is my understanding that this is  
10 the agreed statement because the subject of the second  
11 one is "Urgent, this is the statement" so I take that  
12 as an instruction to send it out, as a positive  
13 command: "This is the statement."

09:21:20

09:21:22

09:21:24

09:21:27

09:21:30

14 Q. Okay.

09:21:33

15 A. And I say, "Thanks, Philip" because I'm aware  
16 of the fact that he had a hand, a considerable hand in  
17 the drafting.

09:21:33

09:21:37

09:21:40

18 Q. Okay. Could I ask you to please refer back to  
19 Exhibit 2. Looking also at Exhibit 9, Exhibit 9 appears  
20 to have five sentences in it. Do you agree that those  
21 same five sentences are part of the communication that is  
22 borne in Exhibit 2?

09:21:41

09:21:47

09:22:03

09:22:10

09:22:13

23 A. Sorry, could you say that again. I'm just  
24 following what your --

09:22:18

09:22:20

25 Q. It was a bad question. Let me try that again.

09:22:21

**EXHIBIT 1**  
**(File Under Seal)**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

VIRGINIA L. GIUFFRE,

Plaintiff,

Case No.:

-against-

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



1 G Maxwell - Confidential

2 30 girls --

3 A. I did not count the number of girls  
4 and I did read the police report. I can only  
5 testify to what I read.

6 Q. So you are aware that the police  
7 report contains reports from 30 underage  
8 girls?

9 A. I can't testify to what the girls  
10 said. I can only testify to the fact that I  
11 read a police report that stated that.

12 Q. Were you working for Jeffrey -- you  
13 said you worked for him off an on until 2009,  
14 is that correct?

15 A. I helped out from time to time.

16 Q. So you were working with him during  
17 the time period when these underage girls  
18 were visiting Jeffrey's home?

19 MR. PAGLIUCA: Objection to the  
20 form and foundation.

21 A. I was not -- what year, I need  
22 years.

23 Q. How about let's say 2005?

24 A. I'm not sure I was at the house at  
25 all in 2005, maybe one day, maybe.

1 G Maxwell - Confidential

2 Q. How about 2004?

3 A. I was present for his mother's --  
4 his mother died in 2004 so I was there for  
5 his mother's death and the funeral and I was  
6 at the house maybe a handful of days, again.

7 Q. I would like to direct you to, you  
8 have it pulled together now, it's page 39,  
9 Bates stamped Giuffre 00040?

10 A. Can you repeat that, please.

11 Q. Sure. 00040.

12 A. Yes.

13 Q. At the top of that document, about  
14 three lines down, you see the redacted  
15 portions where there is black so it blacks  
16 out the name.

17 A. I see black redacted portions.

18 Q. That's a black redaction of the  
19 name of the minor and there is -- I will  
20 represent for the record that's what it is.  
21 You can contest that but I'm not asking about  
22 the name of the minor.

23 Five lines down, it says, She was  
24 just 16 years of age.

25 Do you see that?

1 G Maxwell - Confidential

2 A. How would I possibly, these were  
3 messages taken when I was not at the house  
4 and I have no idea who they are nor how old  
5 they are nor anything.

6 Q. How do you know you weren't at the  
7 house on this day?

8 A. I was hardly at the house in 2005.

9 Q. So you could have been there, you  
10 just don't know?

11 A. In the five days I might have been  
12 there in 2005, I suppose it's possible but  
13 it's unlikely.

14 MR. PAGLIUCA: Do you know why this  
15 isn't redacted if you are representing  
16 all the names of people who are underage  
17 have been redacted from these records.

18 MS. McCAWLEY: I think it was -- my  
19 assumption is it was a miss by the  
20 police department.

21 Q. I will direct your attention to SAO  
22 3008 so you will skip a page and go back,  
23 it's the final page in the message pads and  
24 you will see on the top left for Jeffrey, on  
25 6/1/2005 from Jean Luc Brunel with a phone



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 “Motion to Compel” Work Product  
and Attorney-Client Communications with Philip Barden**

Laura A. Menninger  
Jeffrey S. Pagliuca  
Ty Gee  
HADDON, MORGAN AND FOREMAN, P.C.  
150 East 10<sup>th</sup> Avenue  
Denver, CO 80203  
303.831.7364

Defendant Ghislaine Maxwell, through counsel, submits this Response to plaintiff's "Motion to Compel All Work Product and Attorney Client [sic] Communications with Philip Barden" (Doc.637).

### PROCEDURAL BACKGROUND

On February 24, 2016, we served on plaintiff's counsel Ms. Maxwell's Initial Fed. R. Civ. P. 26(a)(1)(A) Disclosures. The third-listed individual we identified who "likely [has] discoverable information" was Philip Barden, who, we disclosed, had information "concerning press statements . . . at issue in this matter":

3. **Philip Barden**  
Devonshires Solicitors LLP  
30 Finsbury Circus  
London, United Kingdom  
EC2M 7DT  
DX: 33856 Finsbury Square  
(020) 7628-7576  
[Philip.Barden@devonshires.co.uk](mailto:Philip.Barden@devonshires.co.uk)

**Mr. Barden has knowledge concerning press statements by Plaintiff and Defendant in 2011-2015 at issue in this matter.**

Menninger Decl., Ex.A. Plaintiff never sought to depose Mr. Barden.

On June 23, 2016, this Court ordered that the parties complete all fact discovery by July 29, 2016. *See* Doc.317 at 2.

Plaintiff propounded discovery requests as follows:

|            |                                                   |
|------------|---------------------------------------------------|
| 10/27/2015 | Plaintiff's First Set of Requests for Production  |
| 4/14/2016  | Plaintiff's Second Set of Requests for Production |
| 5/27/2016  | Plaintiff's First Set of Interrogatories          |
| 5/27/2016  | Plaintiff's Request for Admissions                |

The First Set propounded thirty-nine (39) requests for production. The Second Set propounded an additional forty-three (43) requests for production. None requested Mr. Barden's

attorney work product. Nor did plaintiff's interrogatories and requests for admissions propounded on May 27, 2016.

On January 6, 2017, Mr. Barden submitted a declaration in support of Ms. Maxwell's motion for summary judgment. In the declaration, he stated, "I am not authorised to and do not waive Ms. Maxwell's attorney-client privilege." Doc.542-7, Ex.K ¶ 3. Mr. Barden did not reference any communications with his client Ms. Maxwell, let alone disclose any attorney-client communications. *See generally id.*, Ex.K. He did disclose his intent and strategy underlying his preparation of the statement he caused to be transmitted January 2, 2015, via press agent Ross Gow to various journalists. *See id.*, Ex.K ¶¶ 12-24, 26-30.

### PLAINTIFF'S FACTUAL ERRORS

Plaintiff makes numerous factual errors in her motion's factual "Background."

1. Plaintiff says Mr. Barden's submission is "a *post hoc*, self-serving declaration." Mot. 2. Of course every declaration submitted in this litigation by witnesses to events that took place in 2012-2015 by definition is *post hoc*. Since Mr. Barden is a third-party witness and not one of the parties, by definition his declaration is not "self-serving." In any event, calling a declaration "self-serving" is a legal canard. There is nothing improper even for litigants suing for money, such as plaintiff, to submit "self-serving" declarations so long as they are truthful, and there is nothing improper about a court's considering—and giving due weight—to "self-serving" testimony. *See Lupyán v. Corinthian Colls.*, 761 F.3d 314, 321 n.2 (3d Cir. 2014) ("As with any other kind of evidence, the declarant's interest in the outcome is merely one factor . . . to weigh in determining the reliability of the evidence. It is not a reason to automatically reject the evidence. Indeed, the testimony of a litigant will almost always be self serving since few litigants will knowingly volunteer statements that are prejudicial to their case. However that has never meant that a litigant's evidence must be categorically rejected by the fact finder.").

2. Plaintiff says Mr. Barden’s declaration “and the briefing” to which it was attached reference his “‘intent’ (and other synonymous phrases) . . . at least 62 times.” Mot. 3 (emphasis omitted). She suggests it is improper for a declaration and the briefs to which it is attached to reference or discuss intent. The suggestion is misguided. If intent is a relevant question of fact, of course there is nothing wrong with discussing it.

3. Plaintiff says Mr. Barden’s declaration “reveals attorney client [sic] legal advice given to Defendant, *such as*”<sup>1</sup> these two sentences in the declaration: “I did not ask Ms. Maxwell to respond point by point to Ms. Giuffre’s factual allegations in the CVRA joinder motion. What we needed to do was issue an immediate denial and that necessarily had to be short and to the point.” Doc.542-7, Ex.K ¶ 13. Neither of the two sentences “reveals” attorney-client communications. To the contrary, the first sentence references a *non*-communication with Ms. Maxwell, i.e., what Mr. Barden did *not* talk to Ms. Maxwell about. The second sentence simply discloses attorney Barden’s thought process, which by definition is not an attorney-client communication. We italicize plaintiff’s use of “such as,” connoting—disingenuously, we submit—the introduction of an example. Besides these two frivolous examples of attorney-client communications, plaintiff identifies no others.

4. Supplementing her lengthy summary-judgment brief and oral argument, plaintiff re-urges her point that really it was Ms. Maxwell personally, and not Mr. Barden, who directed Mr. Gow to issue the January 2015 statement. Mot. 3. We suggest plaintiff’s persistent repetition of her arguments—as with any repetition, they have become familiar, but not more persuasive—suggests her recognition that we have advanced meritorious and weighty arguments for summary

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<sup>1</sup>Mot. 3 (emphasis supplied).

judgment. On her third try, plaintiff makes no further headway. We address here each piece of “documentary and testimonial evidence” plaintiff alleges supports her argument.

a. As plaintiff acknowledges, Ms. Maxwell’s testimony is completely consistent with Mr. Barden’s testimony; “So my lawyer, Philip Barden[,] instructed Ross Gow to issue a statement.” Mot. 4 (emphasis omitted).

b. Plaintiff argues Mr. Gow produced a “smoking gun” email chain in which Ms. Maxwell personally directed him to distribute the January 2015 statement. Mot. 4. The “smoking gun” is a dud. It too is consistent with—corroborates—Mr. Barden’s testimony. The earlier email is from Ms. Maxwell to Mr. Gow with Mr. Barden copied on the email. *See* Doc.638-4. There is *no instruction* in the email. It merely contains the January 2015 statement. In the subject line is this text: “FW: URGENT – this is the statement.” The “FW” is important—it is the abbreviation for “Forward,” indicating an email has been *forwarded* by the sender, in this case Ms. Maxwell. The email does not disclose who *originally* sent the email to Ms. Maxwell that she then *forwarded* to Mr. Gow. The later, reply email—from Mr. Gow to Ms. Maxwell, copying Mr. Barden, is notable. Its text reads: “OK G going with this, *thanks Philip.*” (Emphasis supplied.) This suggests Mr. Barden was intimately involved with Mr. Gow’s action of sending the January 2015 statement to journalists.<sup>2</sup> It also suggests (“going with this, thanks Philip”) that, notwithstanding the absence of any direction in the earlier email from Ms. Maxwell, Mr. Gow *knew what to do*, which itself suggests *prior direction* from someone.

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<sup>2</sup>Plaintiff asserts that Mr. Barden is “nowhere to be found on any of these communications” between Ms. Maxwell and Mr. Gow. Mot. 3. That is incorrect. Mr. Barden was copied on both the email from Ms. Maxwell to Mr. Gow and on the email from Mr. Gow to Ms. Maxwell. *See* Doc.638-4.

c. Plaintiff next asserts Mr. Gow's testimony supports her argument Mr. Barden did not direct Mr. Gow to send the January 2015 statement. She points to Mr. Gow's testimony that "[m]y understanding . . . is"<sup>3</sup> Ms. Maxwell sent the earlier email to Mr. Barden originally and because he was unavailable, she forwarded it to Mr. Gow. Plaintiff's reliance on this testimony is misplaced. Even if Mr. Gow's speculation about how he came to receive the email were admissible, it hardly makes plaintiff's point. One, there is no *direction*—no *instruction*—given in the email. The words in the *subject line* "this is the statement" is hardly a "command," as plaintiff argues, let alone direction to take action. Two, since the email contains no direction, it begs the question, how did Mr. Gow know to issue the January 2015 statement upon receiving the email? The answer is found in Mr. Barden's declaration. Before Mr. Gow received the email he *already knew* he was to issue the statement. In Mr. Barden's words: "In liaison with Mr. Gow and my client, on January 2, 2015, I prepared a further statement . . . , and I instructed Mr. Gow to transmit it via email to" the journalists. Doc.542-7, Ex.K ¶ 10 (emphasis supplied). The answer also is found in Ms. Maxwell's April 22, 2016, testimony: "[M]y lawyer, Philip Barden[,] instructed Ross Gow to issue a statement." Mot. 4 (boldface omitted).

5. Plaintiff also argues Ms. Maxwell "attempts to blame the defamatory press release entirely on [Mr. Barden]." Mot. 4. There is no "blaming." The facts are not in dispute. Ms. Maxwell engaged Mr. Barden as her lawyer; Mr. Barden engaged Mr. Gow as his agent. See Doc.542-7, Ex.K ¶¶ 9-10. Ms. Maxwell has not disclaimed legal responsibility for the January

---

<sup>3</sup>Mot. 5.

2015 statement prepared on her behalf by Mr. Barden and issued on her behalf by Mr. Gow at Mr. Barden's direction.

## ARGUMENT

**Plaintiff is entitled to no discovery of Mr. Barden's work product or Ms. Maxwell's attorney-client communications.**

**A. Plaintiff has violated every rule governing motions to compel, including the one requiring the existence of an unsatisfied request for production.**

Federal Rule of Civil Procedure 37(a)(1) provides that any motion to compel must be accompanied by a certification that the movant has in good faith conferred with the “party *failing to make . . . discovery*” (emphasis supplied).

Rule 37(a)(3) provides that “[a] party seeking discovery may move for an order compelling . . . production . . . if . . . a party fails to produce documents . . . *as requested under Rule 34*” (emphasis supplied).

Local Civil Rule 37.1 provides that in any motion brought under Rule 37, including a motion to compel, “the moving party shall specify and *quote or set forth verbatim in the motion papers each discovery request and response to which the motion . . . is addressed*” (emphasis supplied).

Plaintiff failed to comply with any of these rules.

On the last page of the motion plaintiff counsel certifies she “*raised*” “the failure to produce issue [sic]” when she “oppos[ed]” Ms. Maxwell’s summary judgment and when she presented “oral argument” on summary judgment. Mot. 12 (emphasis supplied). That is not a Rule 37(a)(1) certification. Plaintiff’s counsel fails to certify she (a) “in good faith” (b) “conferred” with the defense. Instead, she certifies she (a) “*raised*” (b) an “*issue.*” The failure to comply with Rule 37(a)(1) warrants denial of the motion. *Dorchester Fin. Holdings Corp. v. Banco BRJ, S.A.*, 11-CV-1529 KMW KNF, 2014 WL 3747160, at \*5 (S.D.N.Y. July 3, 2014).

Rule 37(a)(3) requires that a motion to compel the production of a document be grounded on the *existence of an unsatisfied request for production*. So too does Local Civil Rule 37.1. Plaintiff has identified no unsatisfied request for production. That violates both rules. Her motion must be denied on this basis alone, as a legion of cases confirms. *See, e.g., Hassan v. Town of Brookhaven*, No. 13-CV-4544 JMA SIL, 2015 WL 3455108, at \*4 (E.D.N.Y. May 29, 2015) (rejecting motion to compel: “Even more troubling, it appears that Hassan did not prepare or serve any requests for discovery in this action, and simply made a motion to compel as his first and only method of obtaining discovery.”); *Brown v. Chappius*, No. 13-CV-00105A F, 2015 WL 5316356, at \*3 (W.D.N.Y. Sept. 10, 2015) (denying motion to compel production of documents: “Plaintiff has failed to serve formal discovery demands requesting such materials.”).

The meritlessness of a motion to compel combined with failure to confer warrants denial and a sanction. *Window Headquarters, Inc. v. Mat Basic Four, Inc.*, No. 91 CIV. 1816 (MBM), 1996 WL 63046, at \*1 (S.D.N.Y. Feb. 9, 1996) (“Because the motion was without basis and was filed by Fagan without consulting his adversary, Fagan will pay to counsel for Ventech a sanction in the amount of \$200, that being the minimum reasonable cost of responding to this meritless motion.”).

**B. Even if plaintiff had a pending discovery request and had complied with the rules, she would be barred from access to Ms. Maxwell’s attorney-client communications.**

The attorney-client privilege “belongs solely to the client and may only be waived by him. An attorney may not waive the privilege without his client’s consent.” *In re von Bulow*, 828 F.2d 94, 100 (2d Cir. 1987); *accord, e.g., In re Bank of New York Mellon Corp. Forex Transactions Litig.*, 66 F. Supp. 3d 406, 410 (S.D.N.Y. 2014).

Plaintiff cites a bevy of cases from New York to Minnesota to Texas for the proposition that the attorney-client can be waived. That is not in question. What is in question is whether



Ms. Maxwell's attorney-client privilege has been waived. Plaintiff makes a one-sentence argument: The privilege "was waived by her affirmative submission of Mr. Barden's declaration which included *references* to attorney-client communications between [Ms. Maxwell] and Mr. Barden." Mot. 8 (emphasis supplied). We italicize the plural "references" to accentuate the disingenuousness of the argument, which identifies *no* "reference," let alone "references," to attorney-client communications in Mr. Barden's declaration. *See id.*

Five pages earlier, in the "Background" section of the motion, plaintiff does identify two sentences in Mr. Barden's declaration that she says effected a waiver of the attorney-client privilege: "I did not ask Ms. Maxwell to respond point by point to Ms. Giuffre's factual allegations in the CVRA joinder motion. What we needed to do was issue an immediate denial and that necessarily had to be short and to the point." Doc.542-7, Ex.K ¶ 13.

As we suggested above, *see* This Resp. 3, the contention that these two sentences effected an attorney-client privilege waiver is nonsense. It is well established that "absent a client's consent or waiver, the publication of confidential communications by an attorney does not constitute a relinquishment of the privilege by the client." *von Bulow*, 828 F.2d at 100. Mr. Barden stated explicitly in his declaration, "I am not authorised to and do not waive Ms. Maxwell's attorney-client privilege." Doc.542-7, Ex.K ¶ 3. Regardless, a lawyer cannot waive his client's attorney-client privilege by stating what he did *not* say to his client; it is frivolous to suggest otherwise.

### CONCLUSION

The Court should deny the motion to compel, and award sanctions.

Dated: March 2, 2017

Respectfully submitted,

*/s/ Laura A. Menninger*

\_\_\_\_\_  
Laura A. Menninger (LM-1374)

Jeffrey S. Pagliuca (*pro hac vice*)

Ty Gee (*pro hac vice*)

HADDON, MORGAN AND FOREMAN, P.C.

150 East 10<sup>th</sup> Avenue

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Phone: 303.831.7364

Fax: 303.832.2628

lmenninger@hmflaw.com

*Attorneys for Ghislaine Maxwell*

**CERTIFICATE OF SERVICE**

I certify that on March 2, 2017, I electronically served this *Defendant's Response to "Motion to Compel" Work Product and Attorney-Client Communications with Philip Barden* via ECF on the following:

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*/s/ Nicole Simmons*  
\_\_\_\_\_  
Nicole Simmons

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
VIRGINIA L. GIUFFRE,  
Plaintiff,  
v. 15-cv-07433-RWS  
GHISLAINE MAXWELL,  
Defendant.  
-----X

**Declaration of Laura A. Menninger in Support of  
Defendant’s Response to “Motion to Compel” Work Product  
and Attorney-Client Communication with Philip Barden**

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 “Motion to Compel” Work Product and Attorney-Client Communications with Philip Barden.

2. Attached as Exhibit A (filed under seal) are true and correct copies of excerpts from Ms. Maxwell’s Initial F. R.C.P. 26(a)(1)(A) Disclosures, dated February 24, 2016.

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

Executed on March 2, 2017.

*s/ Laura A. Menninger*  
\_\_\_\_\_  
Laura A. Menninger

**CERTIFICATE OF SERVICE**

I certify that on March 2, 2017, I electronically served this *Declaration of Laura A. Menninger in Support of Defendant's Response to "Motion to Compel" Work Product and Attorney-Client Communications with Philip Barden* via ECF on the following:

Sigrid S. McCawley  
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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,  
v. 15-cv-07433-RWS  
Ghislaine Maxwell,  
Defendant.  
-----X

**DEFENDANT GHISLAINE MAXWELL'S  
INITIAL F.R.C.P. 26(a)(1)(A) DISCLOSURES**

Pursuant to F.R.C.P. 26(a)(1)(A), Defendant Ghislaine Maxwell makes the following disclosures:

**I. IDENTITIES OF INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION RELEVANT TO DISPUTED FACTS ALLEGED WITH PARTICULARITY IN THE PLEADINGS**

1. Ghislaine Maxwell  
c/o Laura A. Menninger, Esq.  
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150 E. 10<sup>th</sup> Ave.  
Denver, CO 80203  
303-831-7364  
[LMenninger@HMFLaw.com](mailto:LMenninger@HMFLaw.com)

Ms. Maxwell is the Defendant and may have knowledge concerning matters at issue, including the events of 1999-2002 and the publication of statements in the press in 2011-2015.

2. Virginia Lee Roberts Giuffre  
c/o Sigrid S. McCawley, Esq.  
Boies, Schiller & Flexner LLP  
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(954) 356-0011  
[smccawley@bsflp.com](mailto:smccawley@bsflp.com)

Ms. Giuffre is the Plaintiff and has knowledge concerning the matters at issue in her Complaint, including the events of 1996-2015 and the publication of statements in the press in 2011-2015.

3. Philip Barden  
Devonshires Solicitors LLP  
30 Finsbury Circus  
London, United Kingdom  
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Mr. Barden has knowledge concerning press statements by Plaintiff and Defendant in 2011-2015 at issue in this matter.

4. Paul Cassell  
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383 South University Street  
Salt Lake City, UT 84112  
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Mr. Cassell has knowledge concerning press statements by Plaintiff, Plaintiff's court pleadings, and Plaintiff's sworn testimony.

5. Alan Dershowitz  
c/o Richard A. Simpson, Esq.  
WILEY REIN, LLP  
1776 K Street NW  
Washington, D.C. 20006  
(202) 719-7000

Mr. Dershowitz has knowledge concerning Plaintiff's false statements to the press, in court pleadings, and in sworn testimony, at issue in this matter.

6. Bradley Edwards  
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Dated: February 24, 2016.

Respectfully submitted,

*s/ Laura A. Menninger*

---

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*Attorney for Ghislaine Maxwell*

#### **CERTIFICATE OF SERVICE**

I certify that on February 24, 2016, I electronically served this *DEFENDANT GHISLAINE MAXWELL'S INITIAL F.R.C.P. 26(A)(1) DISCLOSURES* via e-mail on the following:

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BOIES, SCHILLER & FLEXNER, LLP  
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smccawley@bsflp.com

*s/ Laura A. Menninger*

---

Laura A. Menninger

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 Combined Motion To Compel Non-Party Witness To Produce Documents  
and Respond To Deposition Questions, And  
Response to Motion for Protective Order for Non-Party Witness**

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## TABLE OF CONTENTS

|                                                                                                                                                                                |    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| STATEMENT OF CONFERRAL .....                                                                                                                                                   | 1  |
| INTRODUCTION .....                                                                                                                                                             | 1  |
| BACKGROUND .....                                                                                                                                                               | 2  |
| I. MS. RANSOME HAS FAILED TO PROVIDE AN APPROPRIATE PRIVILEGE LOG,<br>THEREBY EFFECTING A WAIVER OF PRIVILEGE.....                                                             | 4  |
| II. DOCUMENTS RELATED TO <i>JANE DOE 43 V. JEFFREY EPSTEIN, ET AL.</i> , 17-CV-<br>00616-JGK (S.D.N.Y.) ARE HIGHLY RELEVANT TO MS. RANSOME’S TESTIMONY<br>IN THIS ACTION ..... | 5  |
| III. MS. RANSOME UNJUSTIFIABLY REFUSED TO ANSWER RELEVANT DEPOSTION<br>QUESTIONS, AND SHE MUST BE COMPELLED TO RE-APPEAR AND RESPOND. 10                                       |    |
| IV. MS. RANSOME MUST BE REQUIRED TO PRODUCE REPONSIVE DOCUMENTS<br>THAT HAVE BEEN WITHELD WITHOUT BASIS, AND IDENTIFY ANY OTHER<br>DOCUMENTS WITHELD .....                     | 12 |
| CONCLUSION.....                                                                                                                                                                | 14 |
| CERTIFICATE OF SERVICE .....                                                                                                                                                   | 17 |

Defendant Ghislaine Maxwell (“Ms. Maxwell”) files this Combined Motion to Compel Non-Party Witness to Produce Documents and Respond to Deposition Questions, and Response to Motion for Protective Order for Non-Party Witness (ECF 640)<sup>1</sup> and further states as follows:

### **STATEMENT OF CONFERRAL**

The undersigned has conferred with Mr. Stanley Pottinger, who represents both Plaintiff and non-party witness Ms. Ransome, via email and telephone on the issues raised in this motion and has been unable to resolve these issues without court intervention.

### **INTRODUCTION**

Counsel for Plaintiff, also counsel for non-party witness Sarah Ransome, in mid-January belatedly disclosed a “new witness” counsel apparently had known about for months.<sup>2</sup> Plaintiff then asked this Court to re-open discovery for the deposition of Ms. Ransome, promised to make her available “immediately” for deposition and agreed to accept a subpoena for her to produce documents, in an attempt to “cure” her own late disclosure. Now, after having created a last-minute scramble to conduct discovery on facts far removed in time and circumstance from Plaintiff’s defamation claim, Plaintiff now complains that too much is being asked of her “witness.” Plaintiff protests that the requested documents and testimony sought -- all of which relate to Ms. Ransome’s allegations and credibility -- are irrelevant to this single count defamation action. Of course, the defense has said since learning of her that Ms. Ransome’s story is irrelevant to this case. But, if Plaintiff insists that Ms. Ransome should testify at trial, she must comply with properly served and propounded subpoena for testimony and records.

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<sup>1</sup> To avoid excessive and duplicative briefing on overlapping issues, Ms. Maxwell is submitting her Response to the Motion for Protective Order together with her Motion to Compel.

<sup>2</sup> In their letter motion to the Court of January 19 as well as during the hearing of February 2 on this topic, Plaintiff claimed she had “recently” learned of this “new” witness. As it turns out, Plaintiff’s counsel Bradley Edwards, Paul Cassell and Stanley Pottinger had already signed a fee agreement to represent this witness more than two months earlier, on November 7, 2016. Plaintiff’s counsel still has not explained why they waited more than two months to disclose the witness, nor why they represented to the Court that she was a “recent” discovery.

## BACKGROUND

Plaintiff first identified Sarah Ransome as a witness on January 13, 2016, a mere two months before trial was scheduled to begin. In evaluating the relevance of the documents sought in the third-party subpoena to Ms. Ransome, and the questions posed to her in the February 17 deposition, it is important to understand how Ms. Ransome first came forward as a witness. Based on her deposition testimony, sometime in October of 2016, Ms. Ransome read an article in the New York Post written by Maureen Callahan regarding a recently published book by James Patterson concerning Jeffrey Epstein. *See* Menninger Decl. Ex. A (Ransome Dep.) at 36:25-43:24. The article details multiple things, including that Mr. Epstein has routinely settled out of court many civil cases brought against him by various women. *See* Menninger Decl., Ex. B. After reading the article, Ms. Ransome contacted Ms. Callahan via email resulting in several communications with Ms. Callahan, none of which have been produced. *See* Menninger Decl. Ex. A at 36:25-43:24. Ms. Callahan apparently did nothing with this information, in part, quite possibly, because of the lack of trustworthiness of Ms. Ransome's story.

Then, at some unknown time in early November, Ms. Ransome contacted the Boies Schiller firm and spoke with Sigrid McCawley. *Id.* at 24:25-28:5. The exact date of the first communication between the Boies Schiller firm and Ms. Ransome is unclear because she has refused to produce her telephone records, emails, or a log of any conversations and communications she deems privileged as required by the Rules. In an unusual twist, on November 7, 2016, Ms. Ransome signed an engagement letter with Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L., Stanley Pottinger and Paul Cassell (all of whom also represent

Plaintiff) to represent her as a non-party witness in this matter on a pro-bono basis.<sup>3</sup> Based on the documents produced, however, she is not represented by Boies Schiller or its attorneys. *See* Menninger Decl. Ex. C. Quite notably, despite taking on the representation of Ms. Ransome as of November 7, 2016, Ms. Ransome was not identified as a person with knowledge under Rule 26 until over two months later on January 13, 2017.

On January 26, 2017, Ms. Ransome filed a civil complaint against Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev, under 18 USC § 1595, alleging the following damages:

“injury and pain; emotional distress; psychological and psychiatric trauma; mental anguish; humiliation; confusion; embarrassment; loss of self esteem; loss of dignity; loss of enjoyment of life; invasion of privacy; and other damages associated with Defendants' actions. Plaintiff will incur medical and psychological expenses. These injuries are permanent in nature and Plaintiff will continue to suffer from them in the future.”

*See* Menninger Decl. Ex. D (“Jane Doe 43 Complaint”), ¶ 64. As well, the Complaint alleges the right to civil forfeiture of Mr. Epstein’s planes, his New York mansion and his private island. *Id.* ¶¶ 62 & 63. The Complaint was filed by the Boies Schiller firm presumably on a contingency fee basis. The engagement letter for that matter has not been produced, despite the fact that it is not privileged and its obvious relevance to testing any claim of privilege. In that case, Ms. Ransome seeks millions, if not hundreds of millions, of dollars from the Defendants, including Ms. Maxwell, through her now free legal counsel, all in exchange for providing favorable testimony in this case. The motivation for fabrication of testimony could not be more acute. The majority of the discovery sought goes to this issue. It is highly relevant, probative, and must be produced.

---

<sup>3</sup> It does not appear that any of the communications concerning this representation discuss the limited nature of the representation, the obvious conflicts of interest, or a knowing and intentional waiver of those conflicts by both Ms. Ransome and Plaintiff.

**I. MS. RANSOME HAS FAILED TO PROVIDE AN APPROPRIATE PRIVILEGE LOG, THEREBY EFFECTING A WAIVER OF PRIVILEGE**

Ms. Ransome has refused to produce all but a handful of documents. *See* Menninger Decl. Ex. E, Responses and Objections to Subpoena (“Responses”). With respect to many categories, and in her general objections, she claims the documents sought are “fundamentally privileged communications between a non-party and her counsel.” *Id.* Responses 1-3. While she may assert that privilege under Fed.R.Civ.P. 45(E)(2)(A), she also is required to produce a log of all documents withheld based on any alleged privilege or protection:

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) 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.

An “unjustified failure to list privileged documents on the required log of withheld documents in a timely and proper manner operates as a waiver of any applicable privilege,” *OneBeacon Ins. Co. v. Forman Int’l Ltd.*, 04 CIV. 2271(RWS), 2006 WL 3771010, at \*7–8 (S.D.N.Y. Dec. 15, 2006). As this Court noted in *OneBeacon Ins. Co.*, the waiver of privilege is equally applicable where there is a failure to produce a privilege log under Rules 45 and 26. *Id.* (citing *In re Application for Subpoena to Kroll*, 224 F.R.D. 326, 328 (E.D.N.Y. 2004) (“Rule 45 requires that the party claiming a privilege prepare a privilege log.... Failure to submit a privilege log may be deemed a waiver of the underlying privilege claim.”)); *Labatt Ltd. v. Molson Breweries*, Nos. 93 CV 75004, 94 CV 71540(RPP), 1995 WL 23603 (S.D.N.Y. Jan. 20, 1995), *aff’d*, *Dorf & Stanton Commc’ns, Inc.*, 100 F.3d 919, 923 (Fed.Cir.1997) (upholding determination that privilege had been waived due to failure to satisfy Rules 45(d)(2) and

26(b)(5)); *see also In re Grand Jury Subpoena*, 274 F.3d 563, 575-76 (1st Cir.2001) (stating that a “party that fails to submit a privilege log” pursuant to Fed. R. Civ. P. 45(d)(2) “is deemed to waive the underlying privilege claim”).

Of course, the need for a log to assess any alleged claims of privilege is particularly necessary in this case. It is entirely unclear when Ms. Ransome became represented, and by whom, and related to what matter(s). What is clear is that there is at least one, if not more, of her communications with the Boies Schiller firm when Plaintiff was an unrepresented non-party potential witness. Indeed, the Boies Schiller firm claims they *do not* represent her as a witness in this litigation. Thus, any communication between Boies Schiller and Ms. Ransome relating to her testimony *in this case* is not protected by any privilege and must be produced. Of course, without the required log it is impossible to determine how many improperly categorized “privileged” communications exist. Based on Ms. Ransome’s failure to provide a privilege log, any claim of privilege has been waived.

**II. DOCUMENTS RELATED TO *JANE DOE 43 V. JEFFREY EPSTEIN, ET AL.*, 17-CV-00616-JGK (S.D.N.Y.) ARE HIGHLY RELEVANT TO MS. RANSOME’S TESTIMONY IN THIS ACTION**

In her Responses, Ms. Ransome argues primarily that the documents sought are not related to her witness testimony in this case. The objection reads:

Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *Jane Doe 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action.

*See* Menninger Decl. Ex. E, Responses 9-30.

This argument is perplexing. In Plaintiff’s Motion to Reopen Discovery, Plaintiff (through Ms. McCawley, who does not represent witness Ransome, but does represent Jane Doe



43 (i.e., Plaintiff Ransome)) claimed that Ms. Ransome's experience (*i.e.* the basis for her claims in *Jane Doe 43*) are "highly relevant" to this action. Presumably, Ms. Ransome's testimony in this case will be precisely what she alleged in the *Jane Doe 43* Complaint. Logic follows that either 1) the information relevant to that action is relevant to her testimony in this case, or 2) her testimony is entirely irrelevant to this single count defamation action. We would suggest that the latter is true, as is the case with all other alleged victim witnesses, none of whom know the Plaintiff in this case at all. The proper course of action, then, should be to exclude Ms. Ransome's testimony altogether because, in Ms. Ransome's counsel's own words, the information is not relevant to this single count defamation action.

If the Court determines that Ms. Ransome's testimony is at all relevant, then all of the information sought is relevant to her participation as a witness in this action. First and most fundamentally, the *Jane Doe 43* action seeks millions if not hundreds of millions worth of assets as "civil forfeiture." It appears (although Ms. Ransome refused to answer) that she is unemployed, with no source of income other than from her partner, and lives in a house or apartment rented by him in Spain. *See* Menninger Decl., Ex. A at 9:17-12:21. She came out of the woodwork to provide testimony after reading an article that extensively describes this lawsuit and Mr. Epstein's settlement of other lawsuits. She seeks to testify, by contrast to every other witness ever identified, that 1) Ms. Maxwell was actively involved as an assistant to Mr. Epstein in late 2006 to early 2007, and 2) that she was "lent out" to other people, including Alan "Dershavitz" (as she pronounces it). *See* Menninger Decl., Ex. F (Ransome Affidavit). These are two pieces of testimony that Plaintiff has desperately sought to corroborate with witnesses, and there is more than a mere possibility that these pieces of Ms. Ransome's testimony were suggested to her by Plaintiff's counsel/her counsel. In *Jane Doe 43*, Ms. Ransome, through

Plaintiff's counsel, seeks, among other things, civil forfeiture of two private jets, a mansion in New York, and a private island in the U.S. Virgin Islands. One can hardly imagine a better motive to fabricate testimony than that type of lottery win. To make it even better, there is no purchase price for the ticket, because the people who want the testimony are willing to front the cost of the litigation either on a contingency or pro-bono basis.

“Evidence tending to show a witness's bias or motive to fabricate testimony or evidence presented at trial is nearly always relevant.” *In re WorldCom, Inc. Sec. Litig.*, No. 02 CIV 3288 DLC, 2005 WL 375315, at \*8 (S.D.N.Y. Feb. 17, 2005) (citing *United States v. Abel*, 469 U.S. 45, 52 (1985)); *Middleton v. Walker*, No. 09-CV-5548 JS, 2014 WL 2208177, at \*5 (E.D.N.Y. May 27, 2014) (“Nevertheless, ‘extrinsic proof *tending to establish a reason to fabricate* is never collateral and may not be excluded on that ground.’”) (quoting *People v. Hudy*, 73 N.Y.2d 40, 56 (1988)). Moreover, “‘bias of a witness is not a collateral issue.’” *Id.* (quoting *United States v. James*, 609 F.2d 36, 46 (2d Cir.1979)) *see also see also Abel*, 469 U.S. at 52 (noting that under the common law, a showing of bias by extrinsic evidence was always permitted).

The discovery sought concerning Ms. Ransome's financial information, employment, the nature of her engagement with counsel (including the financial structure of those relationships) all goes to Ms. Ransome's motivation to provide the fabricated testimony she plans to give and bias in this matter. This includes the following document production requests:

1. All Documents containing Communications with Virginia Roberts Giuffre, or any of her attorneys, agents, investigators, from the period 1999-present.
2. All fee agreements for Your engagements with any attorneys for the purpose of pursuing any civil or criminal claims regarding Jeffrey Epstein, Ghislaine Maxwell, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.
29. A copy of Your most recent paycheck, paycheck stub, earnings statement and any bank statement, credit card statement and any Document reflecting any money owed by You to anyone.

The remaining document requests are specifically targeted to obtain impeachment evidence concerning Ms. Ransome's story, as told in the *Jane Doe 43* Complaint and her affidavit submitted in support of Plaintiff's Letter Motion to Re-open Discovery in this case. There is nothing harassing about these requests for production. They seek relevant information concerning Plaintiff's claims and allegations against Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshov, Sarah Kellen, and Nadia Marcincova, and documents that would show that the claims are not true, particularly as they relate to Ms. Maxwell:

3. All Documents that reference, relate to, or mention, whether by name or otherwise, the following individuals: Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshov, Sarah Kellen, and Nadia Marcincova. (Complaint ¶¶33-58)
4. All Communications You have had in whatever form with any other female who you ever witnessed at or in a property, home, business, plane or automobile other vehicle owned or controlled by Jeffrey Epstein.
5. All Communications You have had with Natalya Malyshov, Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Sarah Kellen, or Nadia Marcincova.
6. Any photographs containing any image of Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshov, Sarah Kellen, or Nadia Marcincova.
7. Any photographs taken by You, or containing any image of You, at, in or near any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.
8. Any photographs that depict any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.
9. All of Your passports, travel visas, or permissions to live, work or study in a foreign country, related to the years 2005-present.
10. All Communications regarding any of Your passports, visas, visa applications, or other permission to live, work or study in a foreign country, for the years 2005-present.
11. All Documents referencing any commercial plane tickets, boarding passes, or any other mode of travel during the time period 2006-2007.

12. Any credit card receipt, canceled check, or any other Document reflecting travel by You during the time period 2006-2007.
13. All phone records for any cellphone owned, used or possessed by You during the years 2006-2007.
14. All Documents reflecting or relating to any Communications between Jeffrey Epstein or Ghislaine Maxwell and either of Your parents, step-parents or other family members. (Complaint ¶ 53)
15. All Documents reflecting any money, payment, valuable consideration or other remuneration received by You from Jeffrey Epstein or any person known by You to be affiliated with Jeffrey Epstein.
16. All bank statements, credit card statements, money transfer records, or other statements from any financial institution in Your name, in whole or in part, for the years 2006-2007.
17. Any Documents concerning Your residency during the years 2006-2007, including leases, rental agreements, rent payments, deeds, or trusts.
19. Any Document reflecting any of Your post-secondary training or educational degree or course of study, to include transcripts, payments for tuition, courses taken, dates of attendance and grades received. (Complaint ¶ 37, 53-55; financial motivation based on lack of education or training to facilitate employment)
20. Any application for college, university, or any other post-secondary institution, or technical college, fashion college, modeling training or any similar institution, submitted by You or on Your behalf during the years 2005 – present. (Complaint ¶ 37, 53-55; financial motivation based on lack of education or training to facilitate employment))
21. All Documents reflecting any moneys received by You in exchange for any “modeling” by You. (Complaint ¶ 38)
22. All modeling contracts signed or entered into by You. (Complaint ¶ 38)
23. Any calendar, receipt, Communication or Document reflecting your whereabouts during the calendar years 2006-2007.
24. Any Documents reflecting Your medical, mental health or emergency care or other treatment for any eating disorder, malnourishment, kidney malfunction, emotional problems, psychological or psychiatric disorders, sexually transmitted diseases, and therapy records, and any prescriptions for any of the above categories. (Complaint ¶ 52, 64; motivation to fabricate)
25. Any Documents containing any Communications You have had with any law enforcement agency.

26. Any Documents that reflect any criminal charges, tickets, summonses, arrests, investigations concerning You or witnessed by You.
27. Any Documents containing any statement regarding Your experience or contact with Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova, including without limitation any Communication with anyone, any diary, journal, email, letter, witness statement, and summary.
28. Any civil complaint or civil demand filed by You or on Your behalf by which You have ever sought damages or compensation of any form or nature.
30. A copy of your Facebook, Instagram, Twitter, and any other social media application or program for the years 2006-2007 and from 2015 – present.

While Ms. Ransome has provided *some* documents responsive to Questions 2, 3, 5, 6, 7, and 8, as discussed below, the productions are incomplete and an unknown volume of documents have been withheld. Having purposefully interjected herself into this litigation, and initiating another litigation based on the same allegations about which she now plans on testifying in this case, Ms. Ransome must be compelled to produce each of these clearly relevant categories of documents.

### **III. MS. RANSOME UNJUSTIFIABLY REFUSED TO ANSWER RELEVANT DEPOSITION QUESTIONS, AND SHE MUST BE COMPELLED TO RE-APPEAR AND RESPOND**

The Motion for Protective Order relates primarily to certain deposition questions posed to Ms. Ransome which her counsel (and at times, Plaintiff’s counsel) improperly instructed her not to answer. Each question relates to Ms. Ransome’s claims, credibility, bias and motivation for fabrication of her testimony, requiring responses.

#### **Category 1 - Personal current financial information.**

Ms. Ransome refused to answer whether she has any source of income. She stated that her partner rents the home she lives in, implying he financially supports her, but would not state what he does. *See* Menninger Decl. Ex. A at 9:17-12:21. As such, her partner’s income (or relative lack thereof) and Ms. Ransome’s financial position or ability to earn a living relate

directly to her motivation to fabricate testimony to seek (a substantial amount of) money in in the Jane Doe 43 litigation. Any concerns about disclosure of this information can be alleviated by production under the protective order.

**Category 2 - The cell phone number of her partner.**

Ms. Ransome testified that she first called the Boies Schiller firm on her partner's phone, and that the majority of her other conversations with counsel were on that same phone. *See* Menninger Decl. Ex. A at 24:25-28:5. Given the belated disclosure of this witness, and that the first contact happened sometime before November 7, 2016, the date of initial contact and number of contacts in between are highly relevant to the issue of late disclosure. Thus, subpoenas for these records may be required. Any concerns about providing this information can be alleviated by production under the protective order.

**Category 3 – Allegedly privileged communications with Alan Dershowitz**

Ms. Ransome refused to answer questions concerning her alleged conversations with Mr. Dershowitz sometime in late 2006 or early 2007, claiming they were related to a legal matter and that she believed Mr. Dershowitz was her attorney. *See* Menninger Decl. Ex. A at 172:18-173:12; 180:20-185:23; 199:3-23. Ms. Ransome confirmed in her deposition that Mr. Epstein was present during all conversations she claims to have had with Mr. Dershowitz. She further confirms that Mr. Epstein was there to “support” her and “look after” her regarding some unspecified legal matter, but he was not a party or interested in the dispute. *See* Menninger Decl., Ex. A at 199:3-23. It is axiomatic that any conversations between Ms. Ransome and Mr. Dershowitz in the presence of Jeffrey Epstein, a third party, are not protected by privilege. *Safeco Ins. Co. of Am. v. M.E.S., Inc.*, 289 F.R.D. 41, 46 (E.D.N.Y. 2011) (“Generally, communications made between a defendant and counsel in the known presence of a third party are not privileged.”). Ms. Ransome must be compelled to respond to these questions.

**Category 4 – Ms. Ransome’s current medical provider**

Ms. Maxwell will withdraw this question.

**The Witness’s Abandoned Objections**

Notably absent from the Motion for Protective Order are several other questions posed to Ms. Ransome that she was instructed not to answer without any claim of privilege or protection. Ms. Ransome should also be required to answer these questions, in particular since she has not sought a protective order on these lines of questioning, nor could she.

1. Her partner’s occupation (motivation for fabrication)
2. Her parents’ addresses (she claims that they spoke with Ms. Maxwell and Mr. Epstein and have knowledge of her “coming forward”)
3. Where she was staying while in NY (paid for by Plaintiff’s Counsel, motive for fabrication and bias)
4. Whether Alan Dershowitz contacted anyone on her behalf (communications with others by counsel not privileged)
5. Her stepmother’s phone number and email address and physical address (she claims that they spoke with Ms. Maxwell and Mr. Epstein)
6. When she provided her photos to her lawyer (*date* of communication and production to attorney not privileged)

There simply was no basis for instructing the witness not to answer these questions, all of which are relevant and none of which are privileged. Ms. Ransome should be compelled to re-appear to answer all questions previously posed to her where she was instructed to answer, excepting the name of her current doctor who prescribed her SSRI medication.

**IV. MS. RANSOME MUST BE REQUIRED TO PRODUCE REponsive DOCUMENTS THAT HAVE BEEN WITHELD WITHOUT BASIS, AND IDENTIFY ANY OTHER DOCUMENTS WITHELD**

In addition to being required to re-appear and respond to non-privileged questions, it became clear at Ms. Ransome’s deposition that her counsel has withheld from production a number of relevant and responsive documents.

The first and most obvious category of withheld documents are email communications between Ms. Ransome and her acquaintances while associated with Mr. Epstein (including the

people she has sued). Counsel for Ms. Ransome only produced selective portions of email chains. By way of example, Menninger Decl. Exhibit G shows an email chain containing six communications she had with Natalia Malyshev, an alleged co-conspirator, yet only two of those emails were produced. The emails produced are in “screenshot” format rather than providing a complete production of the emails with metadata. Menninger Decl. Exhibit H shows 14 separate communications with Leslie Goff, an alleged co-conspirator, yet only four (4) emails were produced. Again, they were produced in “screenshot” format rather than providing a complete production of the emails with metadata. The same incomplete productions occur with respect to Sarah Kellen (an alleged co-conspirator) and Pumla Griszell (a woman Ms. Ransome allegedly met through Mr. Epstein and to whom she claims to have reported problems with Epstein). Ms. Ransome must be compelled to produce these documents which likely contain impeachment information, as well as any other documents that are being withheld regarding communications between her and any person whom she claims to have met through Mr. Epstein, or relating to or referencing any of the Defendants in the Jane Doe 43 Complaint.

Ms. Ransome also admitted to possessing multiple email communications with the reporter Maureen Callahan, her first contact in attempting to “come forward” with her story. These emails, including a picture she claims to have sent Ms. Callahan, are obviously responsive to RFP 3 for “All Documents that reference, relate to, or mention, whether by name or otherwise, the following individuals: Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.” There is no basis for withholding these documents, and they must be produced.

Ms. Ransome also failed to provide a complete copy of her application to the Fashion Institute of Technology (“F.I.T.”), despite the fact that her claims center around an alleged



promise by Mr. Epstein to help her get into F.I.T. – *i.e.* the alleged benefit she was promised. The few documents produced suggest that the denial of admission to F.I.T. (if that is what occurred) is more likely a result of lack of required credentials or her failure to timely complete the application process. Either way, the complete application must be produced.

Ms. Ransome also testified that some of the photographs she produced were not taken by her, but were given to her on a disk by Jean Luc Brunel. *See* Menninger Decl. Ex. A at 336:6-18. She could not however, identify which picture she claims to have taken, and which were included on this disk. *Id.* 340:19-341:5. The subpoena to Ms. Ransome requested the native format copies of all pictures (many of which are digital) so that the metadata, including the dates the photographs were taken, can be discerned. *See* Menninger Decl. Ex. I, Instruction 7 (“Responsive electronically stored information (ESI) shall be produced in its native form; that is, in the form in which the information was customarily created, used and stored by the native application employed by the producing party in the ordinary course of business.”). Fed. R. Civ. P. 45(e)(1) requires production of documents in their native form, as specified, including all metadata. This includes a copy of the physical disk containing the photograph allegedly given to Ms. Ransome by Mr. Brunel, and the fronts and backs of any physical pictures.

### CONCLUSION

As the adage goes, be careful what you ask for. Plaintiff, Ms. Ransome and their shared counsel asked to reopen discovery relating to Ms. Ransome. They promised to make her and any information that she may have immediately available. They must now do what they promised.

WHEREFORE, Defendant requests the entry of an Order:

1. Compelling production of all documents responsive to the subpoena, including communications with counsel because privilege has been waived. These include specifically, but are not limited to:

- a. Her current passport, and all missing pages excluded from the passport produced
  - b. Her emails with Maureen Callahan, including ones wherein she sent photograph of her and her boyfriend referenced in her deposition
  - c. Her FIT application
  - d. The disc of photos provided to her by Jean Luc Brunel – containing the metadata
  - e. All photographs either previously produced or withheld, with metadata or, if in hard copy, including the front and back of the photo
  - f. All emails from [REDACTED] by, between, or referencing any Defendant in Jane Doe 43, or communicating with any person Ms. Ransome knew through Jeffrey Epstein, or that related to her claims in this case and the *Jane Doe 43* complaint.
2. Requiring Ms. Ransome to re-appear for deposition and respond to all questions as to which she was instructed not to answer in her first deposition, excluding the name of her current prescribing doctor; and
  3. Denying the Motion for Protective Order

Dated: March 2, 2017

Respectfully submitted,

*/s/ Laura A. Menninger*

\_\_\_\_\_  
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Jeffrey S. Pagliuca (*pro hac vice*)

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**CERTIFICATE OF SERVICE**

I certify that on March 2, 2017, I electronically served this *Defendant's Motion to Compel Non-Party Witness to Produce Documents, Respond to Deposition Questions, and Response to Motion for Protective Order* via ECF on the following:

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\_\_\_\_\_  
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**EXHIBIT E**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Virginia L. Giuffre,

Plaintiff,

v.

Case No.: 15-cv-07433-RWS

Ghislaine Maxwell,

Defendant.

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**NON-PARTY SARAH RANSOME’S RESPONSES AND OBJECTIONS  
TO DEFENDANT’S SUBPOENA REQUESTS**

Sarah Ransome, a non-party to this action, hereby responds to the Subpoena *Duces Tecum* noticed by Defendant Maxwell, and submits these responses and objections (“Responses”) to the document requests contained therein.

**PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

Defendant, Maxwell has served non-party Sarah Ransome with a subpoena *duces tecum* seeking an array of documents that are both irrelevant to this matter and entirely privileged. Defendant’s subpoena is solely meant to harass and place an undue burden on Ms. Ransome.

To be discoverable, information sought must be relevant to the underlying action. Fed. R. Civ. P. 26(b)(1). Where discovery is sought from third parties, the Court must weigh the probative value of the information against the burden of production on said non-party. *In re Biovail Corp. Sec. Litig.*, 247 F.R.D. 72, 74 (S.D.N.Y. 2007) (citing *Concord Boat Corp. v. Brunswick Corp.*, 169 F.R.D. 44, 48-49 (S.D.N.Y.1996)); Fed.R.Civ.P. 45(c)(2)(B). In order to determine whether a subpoena imposes an undue burden, the Court should consider: 1) relevance, 2) the need of the party for the documents, 3) the breadth of the document request, 4) the time period covered by it, 5) the particularity with which the documents are described, and 6) the burden imposed. *Id.*

Specifically, the subpoena served on Ms. Ransome seeks documents that are wholly irrelevant to the underlying action including protected financial information and documents or communications between Sarah Ransome and her attorneys, which are protected by the attorney-client privilege and the work product doctrine. Notably, the face of the subpoena demonstrates that Defendant is not even seeking documents relevant to the matter before this Court, and is instead attempting to obtain backdoor discovery for other actions.

Ms. Ransome's responses are subject to the following qualifications, explanations, and objections, which apply to each and every request, and are incorporated in full by this reference into each and every response below as if fully set forth therein:

1. Ransome objects to Defendant's vastly overbroad non-party subpoena as it places an undue burden on her to have to search for the broad scope of materials requested, most of which seeks information that is irrelevant to the Defamation Action and clearly intended solely to harass, embarrass, intimidate, and oppress this non-party by seeking highly personal and sensitive information.

2. Ransome objects to Defendant's clear abuse of the subpoena power of this Court as she issued subpoena requests that are intended to obtain discovery for the development of another action relating to this non-party, and are clearly unrelated to this case.

3. Ransome responds to the requests as she reasonably interprets and understands the requests. Should Defendant subsequently assert an interpretation of any individual request that differs from her understanding, she reserves the right to supplement the responses.

4. To the extent a request seeks documents protected from discovery by the attorney-client privilege, or any other privilege or protection, no such documents shall be produced even if

no specific objection is asserted in response to each individual request. Inadvertent identification or production of privileged documents or information is not a waiver of any applicable privilege.

5. Ransome objects to the Definitions and Instructions and to each Request to the extent they seek to alter or expand upon the obligations imposed by the Federal Rules of Civil Procedure.

6. Ransome objects to the Definitions and Instructions and to each Request to the extent that it calls for the production of documents that are not in her custody, possession, or control.

7. A statement in response to a specific request that Ransome will produce documents is not a statement that any such documents exist but, rather, means only that such documents that do exist and are responsive to a specific Request will be produced.

8. To the extent that Ransome produces documents in response to specific requests to which she has objected, Ransome reserves the right to maintain such objections with respect to any additional information, and such objections are not waived by the production of responsive documents.

9. Ransome objects to the requests to the extent they seek private and confidential financial information or other confidential information of any kind.

10. Ransome objects to the requests to the extent they seek personal and confidential financial information related to third-parties.

11. Ransome objects to the requests to the extent that they seek documents already in Defendant's possession or to the extent they are publicly available.



12. Ransome objects to the requests as overbroad where a time limit has not been specified. To the extent the Court directs discovery from this non-party, it should be limited to the date of the filing of this action to the present.

13. Ransome objects to the Requests as they seek to place an undue burden on Ransome, who is a non-party to the pending litigation.

### **RESPONSES AND OBJECTIONS**

1. All Documents containing Communications with Virginia Roberts Giuffre, or any of her attorneys, agents, investigators, from the period 1999-present.

#### **RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks fundamentally privileged communications between a non-party and her counsel. Specifically, Ransome objects to this request on the grounds of privilege, the work product doctrine, the common interest privilege, or any other privilege or protection.

Ransome further objects to this Request in that it is vague and ambiguous with respect to its reference to "all documents" containing communications. Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request to the extent it seeks confidential financial information from a non-party. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for "documents," which has been very broadly defined, for a period of time lasting more than seventeen years.

Without waiving such objections, Ransome is not in possession of any non-privileged documents responsive to this request.

2. All fee agreements for Your engagements with any attorneys for the purpose of pursuing any civil or criminal claims regarding Jeffrey Epstein, Ghislaine Maxwell, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks fundamentally privileged communications between a non-party and her counsel. Specifically, Ransome objects to this request on the grounds of privilege, the work product doctrine, the common interest privilege, or any other privilege or protection. Ransome further objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request to the extent it seeks confidential financial information from a non-party.

Without waiving such objections, a copy of non-party Sarah Ransome's retainer agreement is attached hereto as RANSOME\_000016, which should be treated as Confidential pursuant to the parties' Protective Order. Ms. Ransome reserves the right to supplement this response should additional responsive documentation become available.

3. All Documents that reference, relate to, or mention, whether by name or otherwise, the following individuals: Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks fundamentally privileged communications between a non-party and her counsel. Specifically, Ransome objects to this request on the grounds of privilege, the work product doctrine, the common interest privilege, or any other privilege or protection. Ransome further objects to this Request in that it is vague and ambiguous with respect to its reference to "all documents."

Ransome further objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request to the extent it seeks confidential financial information from a non-party. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for all "documents," which has been broadly defined.

Without waiving such objections, all responsive documents in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000001-000016, which should be treated as Confidential pursuant to the parties' Protective Order.

4. All Communications You have had in whatever form with any other female who you ever witnessed at or in a property, home, business, plane or automobile other vehicle owned or controlled by Jeffrey Epstein.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks an unlimited number of communications between a non-party and an unlimited number of unidentified individuals. Defendant has made no effort to specifically identify a single individual, and instead casts an incredibly unreasonable net to include "any other female." Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for "documents," which has been broadly defined, for an unspecified period of time. This request is entirely unreasonable, and the very definition of overly broad. Ransome further objects to this Request in that it is vague and ambiguous, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action.

5. All Communications You have had with Natalya Malyshov, Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Sarah Kellen, or Nadia Marcincova.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks an unlimited number of unspecified communications. Specifically, Ransome objects to this request on the grounds of privilege, the work product doctrine, the common interest privilege, or any other privilege or protection. Ransome further objects to this request in that it is vague and ambiguous with respect to its reference to "all communications." Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for "communications," which has been broadly defined for an unlimited period of time.

Without waiving such objections, all responsive documents in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000001-000016, which should be treated as Confidential pursuant to the parties' Protective Order.

6. Any photographs containing any image of Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, or Nadia Marcincova.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks an unlimited number of unspecified photographs. Ransome further objects to this request in that it is vague and ambiguous with respect to its reference to all photographs. Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for photographs for an unlimited period of time.

Without waiving such objections, all responsive photographs in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000024-000028, 000069, 000121-000123, 000126-000135, 000138-000143, 000145-000155, which should be treated as Confidential pursuant to the parties' Protective Order.

7. Any photographs taken by You, or containing any image of You, at, in or near any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks an unlimited number of unspecified photographs. Ransome further objects to this request in that it is vague and ambiguous with respect to its reference to "any photographs." Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for photographs for an unlimited period of time.

Without waiving such objections, all responsive photographs in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000022, 42-47, 52, 56-59, 71, 127-131, 152, 153, which should be treated as Confidential pursuant to the parties' Protective Order.

8. Any photographs that depict any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks an unlimited number of unspecified photographs. Ransome further objects to this request in that it is vague and ambiguous with respect to its reference to "any photographs." Ransome objects to this Request as overbroad, harassing,

and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it places an undue burden on this non-party including, for example, requiring the non-party to search for photographs for an unlimited period of time.

Without waiving such objections, all responsive photographs in non-party Sarah Ransome's possession are attached hereto as RANSOME\_00017-000156, which should be treated as Confidential pursuant to the parties' Protective Order.

9. All of Your passports, travel visas, or permissions to live, work or study in a foreign country, related to the years 2005-present.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, a copy of non-party Sarah Ransome's current passport is attached hereto as RANSOME\_000157-000168, which should be treated as Confidential pursuant to the parties' Protective Order.

10. All Communications regarding any of Your passports, visas, visa applications, or other permission to live, work or study in a foreign country, for the years 2005-present.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

11. All Documents referencing any commercial plane tickets, boarding passes, or any other mode of travel during the time period 2006-2007.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying

action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, all responsive documents in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000001-000004, 000008, 000011, 000012, which should be treated as Confidential pursuant to the parties' Protective Order.

12. Any credit card receipt, canceled check, or any other Document reflecting travel by You during the time period 2006-2007.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine*



*Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome further objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

13. All phone records for any cellphone owned, used or possessed by You during the years 2006-2007.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead

to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, Ransome is not in possession of documents responsive to this request.

14. All Documents reflecting or relating to any Communications between Jeffrey Epstein or Ghislaine Maxwell and either of Your parents, step-parents or other family members.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, Ransome is not in possession of any documents responsive to this request.

15. All Documents reflecting any money, payment, valuable consideration or other remuneration received by You from Jeffrey Epstein or any person known by You to be affiliated with Jeffrey Epstein.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

16. All bank statements, credit card statements, money transfer records, or other statements from any financial institution in Your name, in whole or in part, for the years 2006-2007.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

17. Any Documents concerning Your residency during the years 2006-2007, including leases, rental agreements, rent payments, deeds, or trusts.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

18. A copy of Your current driver's license.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK

(S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, Sarah Ransome's driver's license will be produced at her deposition in this matter.

19. Any Document reflecting any of Your post-secondary training or educational degree or course of study, to include transcripts, payments for tuition, courses taken, dates of attendance and grades received.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose

20. Any application for college, university, or any other post-secondary institution, or technical college, fashion college, modeling training or any similar institution, submitted by You or on Your behalf during the years 2005 – present.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

21. All Documents reflecting any moneys received by You in exchange for any “modeling” by You.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead

allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

22. All modeling contracts signed or entered into by You.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead



to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

23. Any calendar, receipt, Communication or Document reflecting your whereabouts during the calendar years 2006-2007.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in

that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, all responsive electronic communications in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000001-000015, which should be treated as Confidential pursuant to the parties' Protective Order.

24. Any Documents reflecting Your medical, mental health or emergency care or other treatment for any eating disorder, malnourishment, kidney malfunction, emotional problems, psychological or psychiatric disorders, sexually transmitted diseases, and therapy records, and any prescriptions for any of the above categories.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

25. Any Documents containing any Communications You have had with any law enforcement agency.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

26. Any Documents that reflect any criminal charges, tickets, summonses, arrests, investigations concerning You or witnessed by You.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine*

*Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

27. Any Documents containing any statement regarding Your experience or contact with Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova, including without limitation any Communication with anyone, any diary, journal, email, letter, witness statement, and summary.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this requests seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff, and Natalya Malyshev* Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Without waiving such objections, all responsive electronic communications in non-party Sarah Ransome's possession are attached hereto as RANSOME\_000001-000015, which should be treated as Confidential pursuant to the parties' Protective Order.

28. Any civil complaint or civil demand filed by You or on Your behalf by which You have ever sought damages or compensation of any form or nature.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.).

Defendant is currently in possession of the aforementioned pleading. Therefore, Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

29. A copy of Your most recent paycheck, paycheck stub, earnings statement and any bank statement, credit card statement and any Document reflecting any money owed by You to anyone.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Ransome objects to Defendant's attempt to abuse subpoena power to seek private and confidential financial information or other confidential information of any kind from this non-party. Ransome further objects on the basis that the confidential and private financial records sought by Defendant relating to this non-party have no relevance to proving the allegations in the complaint, and are not discoverable. *DeLeonardis v. Hara*, 25 N.Y.S.3d 185, 185 (N.Y. App. Div. 2016).

30. A copy of your Facebook, Instagram, Twitter, and any other social media application or program for the years 2006-2007 and from 2015 – present.

**RESPONSE:**

In addition to the Preliminary Statement and General Objections, Ransome objects to this request in that she is a non-party and this request seeks information that is clearly not relevant to

the underlying action. Ransome objects to Defendant being permitted to utilize the underlying action to obtain backdoor discovery into a separate action entirely unrelated to whether or not Maxwell defamed Virginia Roberts Giuffre. Ransome further objects to this request in that the face of the request demonstrates that the Defendant is abusing the subpoena power by serving a subpoena on a non-party that seeks discovery unrelated to the underlying matter, but instead allegedly relevant to another Federal Action styled *JANE DOE 43 v. Jeffrey Epstein, Ghislaine Maxwell, Sarah Kellen, Lesley Groff*, and Natalya Malyshev Case Number 1:17-cv-00616-JGK (S.D.N.Y.). Ransome objects to this Request as overbroad, harassing, and not calculated to lead to discoverable evidence relevant to the Defamation Action. Ransome objects to this Request in that it represents a complete invasion of privacy. A non-party should not be subjected to undue harassment serving no admissible purpose.

Dated: February 13, 2017

Respectfully Submitted,

By: /s/ J. Stanley Pottinger

J. Stanley Pottinger  
49 Twin Lakes Road  
South Salem, New York 10590-1012  
914-763-8333

**CERTIFICATE OF SERVICE**

I certify that on February 13, 2017, I electronically served this Objection to Subpoena via Email on the following.

Laura A. Menninger  
Jeffrey S. Pagliuca  
Haddon, Morgan and Foreman, P.C.  
150 East 10<sup>th</sup> Avenue  
Denver, CO 80203  
[lmenninger@hmflaw.com](mailto:lmenninger@hmflaw.com)

By: /s/ J. Stanley Pottinger

# **EXHIBIT F**



**CONFIDENTIAL**

United States District Court  
Southern District of New York

Virginia L. Giuffre,

Plaintiff,

Case No.: 15-cv-07433-RWS

v.

Ghislaine Maxwell,

Defendant.

AFFIDAVIT

I, Sarah Ransome, swear and affirm as follows:

1. I am currently over the age of 18 and presently reside in the country of Spain.
2. In the summer of 2006, when I was twenty-two years old and living in New York, I was introduced to Jeffrey Epstein by a girl I had met named Natalya Malyshov. Shortly after meeting Jeffrey he invited me to fly to his private island in the US Virgin Islands, which I did. After that first trip I traveled to the island several more times, usually on one of Jeffrey's private airplanes, and always at his direction. I am told that my name appears on the flight logs of one or more of those trips. On a few occasions, Jeffrey also arranged to have me flown to the island on commercial flights. As it turned out, the primary purpose of those visits was to have me have sexual relations with Jeffrey, Nadia Macinkova, and various other girls and guests he brought to the island.
3. During one of my visits to the island I met Ghislaine Maxwell. Watching her interact with the other girls on the island, it became clear to me that she recruited all or many of them to the island. Once they were there, she appeared to be in charge of their activities, including what they did, who they did it with, and how they were supposed to stay in line. She assumed the same supervisory role with me as soon as I arrived. Some of the girls appeared to be 18 or older, but many appeared to be young teenagers. I recall seeing a particularly young, thin girl who looked well under 18 and recall asking her her age. I later learned was a ballerina. She refused to tell me or let me see her passport.
4. In addition to spending time with Jeffrey on his island, I spent time with him in New York City. At his town house I was also lent out by him to his friends and




**CONFIDENTIAL**

associates to have sex. Among the people he lent me to was his friend, Alan Dershowitz. On one occasion I was in a bedroom at Jeffrey's New York townhouse with Jeffrey and Nadia Marcinkova. After a short time, Alan Dershowitz entered the room, after which Jeffrey left the room and Nadia and I had sex with Dershowitz. I recall specific, key details of his person and the sex acts and can describe them in the event it becomes necessary to do so.

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

Dated: 05-01-2017



\_\_\_\_\_

Sarah Ransome

CONFIDENTIAL

CERTIFICATE OF ACKNOWLEDGMENT OF EXECUTION OF AN INSTRUMENT

The Kingdom of Spain (Country)

Province of Barcelona (County and/or Other Political Division)

City of Barcelona (County and/or Other Political Division)



SS:

Consulate Gral. of the United States of America (Name of Foreign Service Office)

I,

Hsiao-Ching Chang, Vice Consul

of the United States of America at

Barcelona, Spain

duly commissioned and qualified, do hereby certify that on this day of

01-05-2017

, before me personally appeared

Date (mm-dd-yyyy)

Sarah Emma Ashley RANSOME-----

to me personally known, and known to me to be the individual described in, whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument she duly acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein mentioned.

Handwritten signature of Hsiao-Ching Chang

In witness whereof I have hereunto set my hand and

official seal the day and year last above written.

Hsiao-Ching Chang

Vice Consul of the United States of America

[SEAL]

This document consists of 4 pages, including the Acknowledgement certificate.

NOTE: Wherever practicable all signatures to a document should be included in one certificate.

# **EXHIBIT G**

CONFIDENTIAL

- Compose
- Add Gmail, Outlook, AOL and more
- Inbox (9999+)
- Drafts (7)
- Sent
- Archive
- Spam (115)
- Trash
- Smart views
  - Important
  - Unread
  - Starred
  - People
  - Social
  - Shopping
  - Travel
  - Finance
  - Pumla Grizzell
  - Important
  - Unread
  - Starred
  - People
  - Social
  - Shopping
  - Travel
  - Finance
  - Pumla Grizzell
- Folders
- Recent

Fw: Natalie from ny (6)

[Redacted] 03/02/07 at 1:04 AM

To: [Redacted]

-----Original Message-----  
 To: [Redacted]  
 Sent: Feb 2, 2007 7:01 PM  
 Subject: Fw: Natalie from ny

-----Original Message-----  
 To: Sara new num  
 Sent: Feb 2, 2007 6:58 PM  
 Subject: Natalie from ny

Hey Sarra  
 Miss u Wanted to see how things r going w u. Hope u r having a good time in UK...Wanted to contact u for a while but didn't have ur email  
 I am good Pretty busy but productive  
 Write back let me know what ur up to... When r u gonna b ready for south africa trip and then miami hopefully U lucky girl :) ... Anyways don't disappear Write back Let me know what ur up to  
 Hugs and Kisses  
 Natalie

Sent via BlackBerry from Cingular Wireless

Reply Reply to All Forward More

- Sarah Ransome 04/02/07 at 4:01 PM
  - Sarah Ransome 05/02/07 at 10:09 PM
  - [Redacted] 06/02/07 at 2:00 AM
  - Sarah Ransome 08/02/07 at 9:12 PM
  - [Redacted] 09/02/07 at 9:22 PM
- To: Sara new num
- Hey Sweetie  
 Glad to hear ur doing the essay for fit When r u planning to come to ny? Did u need my adress to mail something to me? [Redacted] Don't worry about fight w J  
 Hugs and kisses Natalie  
 Sent via BlackBerry from Cingular Wireless
- Original Message-----  
 From: Sarah Ransome [Redacted]  
 Date: Thu, 8 Feb 2007 12:12:30  
 To: [Redacted]  
 Subject: Re: Re: Fw: Natalie from ny
- Hey sweetie
- How are you?I am busy writing my essay for FIT. What fun!Had a bit of a fight with Jeffrey. Oh well what can you do?I ment to ask you in my last email, can you please email me your address? Looks like I am not going to Miami either. Well at least I will be back in NY. Hope you are well and look forward to seeing you soon. Please tell Jenifer I say hi.
- Lots of hugs and kisses
- Sarah xxx



Need Mail bonding?

RANSOME\_000004



All Sarah, Sarra, Natalie

Search mail

Search web

Home Sarah

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Compose

- Add Gmail, Outlook, AOL and more
- Inbox (9999+)
- Drafts (7)
- Sent
- Archive
- Spam (115)
- Trash

Smart views

- Important
- Unread
- Starred
- People
- Social
- Shopping
- Travel
- Finance
- Pumla Griszell
- Important
- Unread
- Starred
- People
- Social
- Shopping
- Travel
- Finance
- Pumla Griszell

Folders

Recent

Fw: Natalie from ny (6)

03/02/07 at 1:04 AM

To: [Redacted]

-----Original Message-----

To: [Redacted]  
Sent: Feb 2, 2007 7:01 PM  
Subject: Fw: Natalie from ny

-----Original Message-----

To: Sara new num  
Sent: Feb 2, 2007 6:58 PM  
Subject: Natalie from ny

Hey Sarra  
Miss u Wanted to see how things r going w u. Hope u r having a good time in UK ...Wanted to contact u for a while but didn't have ur email I am good Pretty busy but productive Write back let me know what ur up to... When r u gonna b ready for south africa trip and then miami hopefully U lucky girl :) ... Anyways don't disappear Write back Let me know what ur up to Hugs and Kisses  
Natalie

Sent via BlackBerry from Cingular Wireless

Reply Reply to All Forward More

Sarah Ransome <[Redacted]>

04/02/07 at 4:01 PM

To: [Redacted]

dfdgdred

Finding fabulous fares is fun.  
[Let Yahoo! FareChase search your favorite travel sites](#) to find flight and hotel bargains.

Reply Reply to All Forward More

Sarah Ransome <[Redacted]>

05/02/07 at 10:09 PM

To: [Redacted]

Hey Natalie

It was Great to here from you.I replied yesterday but the whole email got deleted somehow when I pressed send. I was super irritated. Everything is going well here. In south Africa and I have to say it is wonderful being with my family. I will take lots and lots of photos to show you where I come from.

Still determined about going to Miami and then studying in NY. I will be leaving here on the 27th and then meeting up with Jeffrey where ever he may be... Well that is the plan as far as I know. I do however need to phone him this week. I am getting a bit nervous about evething now.diet is still going well. I am 57 kg now, I however dont want to loose anymore. Hav you started gym yet. You will definitely have a partner when I gat back. Speaking of which have you found a super nice man yet? My beautiful friend you deserve the best. So what else is happening? Are you still doing your intemship and how is that going? Anyway I better go.

Babes I really miss you and I am so happy that you emailed me. Hope to hear from you soon.

Lots of hugs and kisses

RANSOME\_000005

**EXHIBIT H**



All Sarah, see your results

Search Mail

Search web



Sarah



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Compose

- Add Gmail, Outlook, AOL and more
- Inbox (9999+)
- Drafts (7)
- Sent
- Archive
- Spam (123)
- Trash
- Smart views
  - Important
  - Unread
  - Starred
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  - Shopping
  - Travel
  - Finance
  - Pumla Griszell
- Important
- Unread
- Starred
- People
- Social
- Shopping
- Travel
- Finance
- Pumla Griszell
- Folders
- Recent

Re: FIT website (14) \*

Sarah Ransome <[redacted]> 06/02/07 at 9:34 PM \*

Hi Lesley

The good news is that I got your email. I am not sure what happened the first time but I think I must have deleted it by mistake as it went to bulk for some reason. I am however having a little bit of hassle. Due to me applying so late I am unable to send my application on line due to technicalities which is very frustrating considering the whole thing has been fuled out and is waiting to be submitted. Please can you ask Jeffery what the plan of action is as I cant apply on line and need to apply asap otherwise I definitely wont be able to study. Please could you also let him know that I am now 57kg and that everything is going well in Cape Town. My South African number is [redacted] so if you could get back to me tomorrow that would be great. Also please send my regards to everyone and give Jeffery my SA number. I hope you are well and will send you some warmth from my side of the world.

Sarah:)

It's here! Your new message!  
Get [new email alerts](#) with the free [Yahoo! Toolbar](#).

Reply Reply to All Forward More

Sarah Ransome <[redacted]> 08/02/07 at 2:43 PM \*

Hi Lesely

I will fax my application to you later on today as I am not able to email it. Could you also please tell Jeffery to phone me on the number i gave asap as I am not prepared to go under 56kg in order to study at FIT. I also need a flight booked back to New York so could you please check with Jeffery. The date that I would like to fly back is the 27th Feb.

Thanks very much

Sarah

Be a PS3 game guru.  
Get your game face on with the latest PS3 news and previews at [Yahoo! Games](#).

Reply Reply to All Forward More

Sarah Ransome <[redacted]> 08/02/07 at 3:00 PM \*

Hi can you please phone back

No need to miss a message. [Get email on-the-go](#) with Yahoo! Mail for Mobile. [Get started](#).

Reply Reply to All Forward More

Lesley Groff <[redacted]> 08/02/07 at 3:01 PM \*

Hi...yes, of course. I will tell him to try you again. Will you keep your phone on and with you?

Lesley Groff  
Executive Assistant to Jeffrey Epstein



RANSOME\_000006





All Sarah. ses...

Search mail

Search web

Home

Sarah



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Compose

Add Gmail, Outlook, AOL and more

Inbox (9999+)

Drafts (7)

Sent

Archive

Spam (123)

Trash

Smart views

Important

Unread

Starred

People

Social

Shopping

Travel

Finance

Pumla Grizzell

Important

Unread

Starred

People

Social

Shopping

Travel

Finance

Pumla Grizzell

Folders

Recent

Re: FIT website (14)

Sarah Ransome

06/02/07 at 9:34 PM

Sarah Ransome

08/02/07 at 9:43 PM

Sarah Ransome

08/02/07 at 3:00 PM

Lesley Groff

08/02/07 at 3:01 PM

Lesley Groff

09/02/07 at 3:30 PM

Sarah Ransome

09/02/07 at 9:07 PM

Lesley Groff

09/02/07 at 9:18 PM

To Sarah Ransome

Thank you Sarah! I will get your essay and email to Jeffrey!! I will also look in to tickets for you...tell me exactly where to need to fly from...

Lesley Groff  
Executive Assistant to Jeffrey Epstein

**From:** Sarah Ransome [mailto:...]  
**Sent:** Friday, February 09, 2007 3:07 PM  
**To:** Lesley Groff  
**Subject:** RE: FIT website

Hi Lesley

Sorry for the delay. Here is my essay and thank you for letting me know that you recieved my application otherwise I would start to worry. Also I really do need a flight booked back to New York preferably the 27th as it is high season here and there might not be any available flights at the end of the month. Can you please check with Jeffrey and let me know.

Thanks ever so much

Sarah

P.S Could you also let him know that I am going to three different modelling agencies on Monday in search of a PA.

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Reply Reply to All Forward More

Lesley Groff

09/02/07 at 9:50 PM

Sarah Ransome

09/02/07 at 10:09 PM

Sarah Ransome

12/02/07 at 9:21 PM

Lesley Groff

13/02/07 at 3:37 PM

Lesley Groff

15/02/07 at 3:01 PM

Sarah Ransome

15/02/07 at 10:06 PM

Lesley Groff

16/02/07 at 2:39 PM

RANSOME\_000008



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- Re: FIT website (14) \*
- Sarah Ransome 08/02/07 at 8:34 PM \*
- Sarah Ransome 08/02/07 at 2:43 PM \*
- Sarah Ransome 09/02/07 at 3:00 PM \*
- Lesley Groff 08/02/07 at 3:01 PM \*
- Lesley Groff 08/02/07 at 3:30 PM \*
- Sarah Ransome 09/02/07 at 9:07 PM \*
- Lesley Groff 09/02/07 at 9:18 PM \*

Lesley Groff [REDACTED] 09/02/07 at 9:50 PM \*

To Sarah Ransome

...I also need to know what kind of visa you are coming on? (student? tourist?) ...do you need a round trip ticket or is this one way to NY?

Lesley Groff  
Executive Assistant to Jeffrey Epstein

---

**From:** Sarah Ransome [mailto:[REDACTED]]  
**Sent:** Friday, February 09, 2007 3:07 PM  
**To:** Lesley Groff  
**Subject:** RE: FIT website

Hi Lesley

Sorry for the delay. Here is my essay and thank you for letting me know that you recieved my application otherwise I would start to worry. Also I really do need a flight booked back to New York preferably the 27th as it is high season here and there might not be any available flights at the end of the month. Can you please check with Jeffery and let me know.

Thanks ever so much

Sarah

P.S Could you also let him know that I am going to three different modelling agencies on Monday in search of a PA.

---

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Reply Reply to All Forward More

- Sarah Ransome 09/02/07 at 10:08 PM \*
- Sarah Ransome 12/02/07 at 5:21 PM \*
- Lesley Groff 13/02/07 at 3:37 PM \*
- Lesley Groff 15/02/07 at 3:01 PM \*
- Sarah Ransome 15/02/07 at 11:06 PM \*
- Lesley Groff 16/02/07 at 1:59 PM \*



Q All Sarah, ses...

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Folders

Recent

Re: FIT website (14)

Sarah Ransome

06/02/07 at 9:54 PM

Sarah Ransome

08/02/07 at 2:43 PM

Sarah Ransome

08/02/07 at 3:00 PM

Lesley Groff

08/02/07 at 3:01 PM

Lesley Groff

To: Sarah Ransome

09/02/07 at 3:30 PM

Hi Sarah! We rec'd your FIT application, but Jeffrey wants you to fax your essay as well. ...we did not receive it. Thanks, Lesley

Lesley Groff  
Executive Assistant to Jeffrey Epstein

From: Sarah Ransome [mailto:...]  
Sent: Thursday, February 08, 2007 9:01 AM  
To: Lesley Groff  
Subject: RE: FIT website

Hi can you please phone back

No need to miss a message. [Get email on-the-go](#) with Yahoo! Mail for Mobile. [Get started.](#)

Reply Reply to All Forward More

Sarah Ransome

08/02/07 at 9:07 PM

Lesley Groff

08/02/07 at 8:18 PM

Lesley Groff

09/02/07 at 9:50 PM

Sarah Ransome

09/02/07 at 10:09 PM

Sarah Ransome

12/02/07 at 5:21 PM

Lesley Groff

13/02/07 at 3:37 PM

Lesley Groff

15/02/07 at 3:01 PM

Sarah Ransome

15/02/07 at 10:06 PM

Lesley Groff

16/02/07 at 3:39 PM

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- Re: FIT website (14)
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- Sarah Ransome 08/02/07 at 3:00 PM
- Lesley Groff 08/02/07 at 3:01 PM
- Lesley Groff 09/02/07 at 3:30 PM
- Sarah Ransome 09/02/07 at 9:07 PM
- Lesley Groff 09/02/07 at 9:13 PM
- Lesley Groff 09/02/07 at 9:50 PM
- Sarah Ransome 09/02/07 at 10:09 PM
- Sarah Ransome 12/02/07 at 5:21 PM

Lesley Groff [redacted] 13/02/07 at 3:37 PM

To: Sarah Ransome

Hi Sarah! Yes, we rec'd your essay! Thank you. I have been looking in to some flights for you and will pass them by Jeffrey...I will also let him know about the modeling potentials!

Lesley Groff  
Executive Assistant to Jeffrey Epstein

-----Original Message-----  
From: Sarah Ransome [mailto:[redacted]]  
Sent: Monday, February 12, 2007 11:22 AM  
To: Lesley Groff  
Subject: Re: RE: FIT website

Morning lesley

Hope you had a good weekend. Did Jeffrey receive the essay and have you seen any flights yet? Could you please let Jeffrey know that I went into modelling agencies today and I might have a couple potentials. Thanks.

Sarah

---

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- Lesley Groff 15/02/07 at 3:01 PM
- Sarah Ransome 14/02/07 at 10:00 PM



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- Lesley Groff 09/02/07 at 3:30 PM \*
- Sarah Ransome @ 09/02/07 at 9:07 PM \*
- Lesley Groff 09/02/07 at 9:18 PM \*
- Lesley Groff 09/02/07 at 9:50 PM \*
- Sarah Ransome 09/02/07 at 10:09 PM \*
- Sarah Ransome 12/02/07 at 5:21 PM \*
- Lesley Groff 13/02/07 at 3:37 PM \*

Lesley Groff [REDACTED] 15/02/07 at 3:01 PM \*

To: Sarah Ransome

Sarah! Hello! We are looking in to tickets for you...but Jeffrey wants to make sure you have a place to stay while you are here. Please let me know. Thanks, Lesley

Lesley Groff  
Executive Assistant to Jeffrey Epstein

-----Original Message-----  
From: Sarah Ransome [mailto:[REDACTED]]  
Sent: Monday, February 12, 2007 11:22 AM  
To: Lesley Groff  
Subject: Re: RE: FIT website

Morning lesley

Hope you had a good weekend. Did Jeffrey receive the essay and have you seen any flights yet? Could you please let Jeffrey know that I went into modelling agencies today and I might have a couple potentials.  
Thanks,

Sarah

---

No need to miss a message. Get email on-the-go with Yahoo! Mail for Mobile. Get started.  
<http://mobile.yahoo.com/mail>

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Sarah Ransome 15/02/07 at 10:06 PM \*

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Pumla Grizzell

Folders

Recent

Happy V day xoxo (2)

People

[Redacted]

15/02/07 at 8:46 AM

To Sara new num

Hey babes Hope ur doing well J forgot to call u He ll b in toucxh as soon as he gets a chance Hope South Africa is going well I am excited because I found another intership position in FASHION u might b interested in In case miami doesn't work out Stay in touch NAT Sent via BlackBerry from Cingular Wireless

Reply Reply to All Forward More

Sarah Ransome [Redacted]

15/02/07 at 10:16 PM

To [Redacted]

Hey my gorgeous friend.

South Africa is still going well. Spent some quality time with my family and it has also given me the oppretunity to think about a few things. I am very interested in the internship in new york. Adam and I are getting quite serious now and he unfortunatly has gist broken his ankle. Plonker! I am coming back next week Sunday so we should arrange to meet. How are things with you. Did you have a good v day. Yuck I hate sloppy couples! Has j said anything about me lately? Missing you lots honey and I am really looking forward to seeing you.

Lots of hugs and kisses

Sarah x x x

Need a quick answer? Get one in minutes from people who know. Ask your question on www.answers.yahoo.com

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06/02/07 at 2:43 PM

Sarah Ransome

09/02/07 at 3:00 PM

Lesley Groff

08/02/07 at 3:01 PM

Lesley Groff

09/02/07 at 3:30 PM

Sarah Ransome

09/02/07 at 9:07 PM

Lesley Groff

09/02/07 at 9:18 PM

Lesley Groff

09/02/07 at 9:50 PM

Sarah Ransome

09/02/07 at 10:09 PM

Sarah Ransome

12/02/07 at 5:21 PM

Lesley Groff

13/02/07 at 3:37 PM

Lesley Groff

15/02/07 at 3:01 PM

Sarah Ransome

15/02/07 at 10:06 PM

Lesley Groff

16/02/07 at 3:39 PM

To: Sarah Ransome

Hi Sarah...Jeffrey is awaiting your picture!...and why were you hoping to hear from me before going to bed??

:) Les

Lesley Groff  
Executive Assistant to Jeffrey Epstein

-----Original Message-----  
From: Sarah Ransome [mailto: [REDACTED]]  
Sent: Thursday, February 15, 2007 4:07 PM  
To: Lesley Groff  
Subject: Re: RE: RE: FIT website

Hey lesley

I will be going to bed in the next hour and a half so hopefully I will speak to you before then. Hope you are well and good hearing from you.

Thanks

Sarah:)

Do you Yahoo!?  
Everyone is raving about the all-new Yahoo! Mail beta.  
<http://new.mail.yahoo.com>

RANSOME\_000014

YAHOO! MAIL

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Jeffrey Epstein

Lesley Groff

21/02/07 at 4:23 PM

To Sarah Ransome

Hello Sarah! The following is from Jeffrey:

I'm surprised I haven't heard from you.

Lesley Groff  
Executive Assistant to Jeffrey Epstein

Reply Reply to All Forward More

Click to Reply, Reply all or Forward

Send [Rich Text Editor Icons]





**EXHIBIT I**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
VIRGINIA L. GIUFFRE,  
    Plaintiff,  
v.  
GHISLAINE MAXWELL,  
    Defendant.  
-----X

**15-cv-07433-RWS**

**NOTICE OF SERVICE OF RULE 45 SUBPOENA  
AND NOTICE OF DEPOSITION OF SARAH RANSOME**

PLEASE TAKE NOTICE that on **February 17, 2017 at 9:00 a.m.**, pursuant to Rule 30 of the Federal Rules of Civil Procedure, counsel for the defendant will take the deposition of Sarah Ransome at 575 Lexington Ave., Fl. 4, New York, NY 10022, before a certified court reporter or other officer duly authorized to administer oaths. The deposition will be recorded by stenographic means.

Pursuant to Rule 45, Defendant Ghislaine Maxwell also hereby provides Notice of Service of Subpoena upon Sarah Ransome. A copy of the Subpoena is attached to this Notice.



Dated: February 6, 2017

Respectfully submitted,

*s/ Laura A. Menninger*

\_\_\_\_\_  
Laura A. Menninger (LM-1374)

Jeffrey S. Pagliuca

HADDON, MORGAN AND FOREMAN, P.C.

150 East 10<sup>th</sup> Avenue

Denver, CO 80203

Phone: 303.831.7364

Fax: 303.832.2628

lmenninger@hmflaw.com

*Attorneys for Ghislaine Maxwell*

#### **CERTIFICATE OF SERVICE**

I certify that on February 6, 2017, I electronically served this *NOTICE OF SERVICE OF RULE 45 SUBPOENA AND NOTICE OF DEPOSITION OF SARAH RANSOME* via Email on the following:

Sigrid S. McCawley  
Meridith Schultz  
BOIES, SCHILLER & FLEXNER, LLP  
401 East Las Olas Boulevard, Ste. 1200  
Ft. Lauderdale, FL 33301  
smccawley@bsflp.com  
mschultz@bsflp.com

Paul G. Cassell  
383 S. University Street  
Salt Lake City, UT 84112  
cassellp@law.utah.edu

Bradley J. Edwards  
FARMER, JAFFE, WEISSING, EDWARDS,  
FISTOS & LEHRMAN, P.L.  
425 North Andrews Ave., Ste. 2  
Ft. Lauderdale, FL 33301  
brad@pathtojustice.com

*/s/ Nicole Simmons*

\_\_\_\_\_  
Nicole Simmons

AO 88A (Rev. 12/13) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

|                   |   |                                  |
|-------------------|---|----------------------------------|
| Virginia Giuffre  | ) |                                  |
| <i>Plaintiff</i>  | ) |                                  |
| v.                | ) | Civil Action No. 15-cv-07433-RWS |
| Ghislaine Maxwell | ) |                                  |
|                   | ) |                                  |
| <i>Defendant</i>  | ) |                                  |

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Sarah Ransome

(Name of person to whom this subpoena is directed)

**Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

|                                                                       |                                            |
|-----------------------------------------------------------------------|--------------------------------------------|
| Place:<br>575 Lexington Avenue, 4th Floor<br>New York, New York 10022 | Date and Time:<br>February 17 at 9:00 a.m. |
|-----------------------------------------------------------------------|--------------------------------------------|

The deposition will be recorded by this method: stenography

**Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Attachment A

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 02/06/2017

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR  Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Ghislaine Maxwell, who issues or requests this subpoena, are:

Laura A. Menninger, 150 E. 10th Ave., Denver, CO 80203, LMenninger@HMFLaw.com, 303-831-7364.

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88A (Rev. 12/13) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 15-cv-07433-RWS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_ *Server's signature*

\_\_\_\_\_ *Printed name and title*

\_\_\_\_\_ *Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) 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.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **ATTACHMENT A**

### **DEFINITIONS**

1. "Any" means any and all.
2. "You" or "Your" means Sarah Ransome, and anyone acting on Your behalf, and any employee, agent, attorney, consultant, assignee, related entities or other representative of You.
3. "Agent" shall mean any agent, employee, officer, director, attorney, independent contractor or any other person acting, or purporting to act, at the discretion of or on behalf of another.
4. "Document" is intended to be defined as broadly as permitted by Rule 34 and includes every writing or record of every type and description that is or has been in Your possession, custody or control, or of which You have knowledge, including but not limited to, emails, text messages, instant messages, videotapes, photographs, notes, letters, memoranda, forms, books, magazines, resumes, notebooks, ledgers, journals, diaries, calendars, appointment books, papers, agreements, contracts, invoices, analyses, transcripts, plaques, correspondence, telegrams, drafts, data processing or computer diskettes and CD disks, tapes of any nature and computer interpretations thereof, instructions, announcements, and sound recordings of any nature. "Document" also means all copies which are not identical to the original document as originally written, typed or otherwise prepared. The term "Document" shall also include all documents of any nature that have been archived or placed in permanent or temporary storage including electronic storage.
5. "Communication" means any transmission or exchange of information between two or more persons, orally or in writing or otherwise, and includes, but is not limited to, any correspondence, conversation or discussion, whether face-to-face, or by means of telephone, email, text message, electronic message via apps such as Facebook, What's App, Snapchat, LinkedIn or similar, or other media or Documents.
6. "Virginia Roberts Giuffre" means Virginia Giuffre, formerly known as Virginia Roberts, date of birth [REDACTED] the Plaintiff in the above captioned matter.
7. "Identify" means to specify as to a "Person," the name, address, telephone number and any other identifying information possessed by You.
8. "Person" means any natural person, individual, firm, partnership, association, joint venture, estate, trust, receiver, syndicate, enterprise or combination, corporation or other legal, business or government entity.
9. Regardless of the tense employed, all verbs should be read as applying to the past, present and future, as is necessary to make any paragraph more, rather than less, inclusive.

10. With respect to any Documents withheld on the basis of a privilege, provide a log consistent with Local Rule 26.2 of the Federal Rules of Civil Procedure for the Southern District of New York.

#### **INSTRUCTIONS**

1. Production of documents and items requested herein shall be made to Laura Menninger, Haddon, Morgan & Foreman, PC, 150 E. 10<sup>th</sup> Ave., Denver, CO 80220, no later than February 13, 2017, at 9:00 a.m. Alternatively, you may provide the records electronically by that date and time to Laura Menninger at [LMenninger@HMFLaw.com](mailto:LMenninger@HMFLaw.com) or by such other method as agreed upon with counsel for the subpoenaing party.
2. This Request calls for the production of all responsive Documents in your possession, custody or control without regard to the physical location of such documents.
3. If any Document was in your possession or control, but is no longer, state what disposition was made of said Document, the reason for the disposition, and the date of such disposition.
4. In producing Documents, if the original of any Document cannot be located, a copy shall be produced in lieu thereof, and shall be legible and bound or stapled in the same manner as the original.
5. Any copy of a Document that is not identical shall be considered a separate document.
6. All Documents shall be produced in the same order as they are kept or maintained by you in the ordinary course of business.
7. Responsive electronically stored information (ESI) shall be produced in its native form; that is, in the form in which the information was customarily created, used and stored by the native application employed by the producing party in the ordinary course of business.
8. Defendant does not seek and does not require the production of multiple copies of identical Documents.
9. Unless otherwise specified, the time frame of this request is from 1999 to present.
10. This Request is deemed to be continuing. If, after producing these Documents, you obtain or become aware of any further information, Documents, things, or information responsive to this Request, you are required to so state by supplementing your responses and producing such additional Documents to Defendant.



**DOCUMENTS TO BE PRODUCED**

1. All Documents containing Communications with Virginia Roberts Giuffre, or any of her attorneys, agents, investigators, from the period 1999-present.
2. All fee agreements for Your engagements with any attorneys for the purpose of pursuing any civil or criminal claims regarding Jeffrey Epstein, Ghislaine Maxwell, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.
3. All Documents that reference, relate to, or mention, whether by name or otherwise, the following individuals: Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova.
4. All Communications You have had in whatever form with any other female who you ever witnessed at or in a property, home, business, plane or automobile other vehicle owned or controlled by Jeffrey Epstein.
5. All Communications You have had with Natalya Malyshev, Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Sarah Kellen, or Nadia Marcincova.
6. Any photographs containing any image of Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, or Nadia Marcincova.
7. Any photographs taken by You, or containing any image of You, at, in or near any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.
8. Any photographs that depict any home, business, private vehicle (including airplane), or any other property owned or controlled by Jeffrey Epstein.
9. All of Your passports, travel visas, or permissions to live, work or study in a foreign country, related to the years 2005-present.
10. All Communications regarding any of Your passports, visas, visa applications, or other permission to live, work or study in a foreign country, for the years 2005-present.
11. All Documents referencing any commercial plane tickets, boarding passes, or any other mode of travel during the time period 2006-2007.
12. Any credit card receipt, canceled check, or any other Document reflecting travel by You during the time period 2006-2007.
13. All phone records for any cellphone owned, used or possessed by You during the years 2006-2007.
14. All Documents reflecting or relating to any Communications between Jeffrey Epstein or Ghislaine Maxwell and either of Your parents, step-parents or other family members.

15. All Documents reflecting any money, payment, valuable consideration or other remuneration received by You from Jeffrey Epstein or any person known by You to be affiliated with Jeffrey Epstein.
16. All bank statements, credit card statements, money transfer records, or other statements from any financial institution in Your name, in whole or in part, for the years 2006-2007.
17. Any Documents concerning Your residency during the years 2006-2007, including leases, rental agreements, rent payments, deeds, or trusts.
18. A copy of Your current driver's license.
19. Any Document reflecting any of Your post-secondary training or educational degree or course of study, to include transcripts, payments for tuition, courses taken, dates of attendance and grades received.
20. Any application for college, university, or any other post-secondary institution, or technical college, fashion college, modeling training or any similar institution, submitted by You or on Your behalf during the years 2005 – present.
21. All Documents reflecting any moneys received by You in exchange for any “modeling” by You.
22. All modeling contracts signed or entered into by You.
23. Any calendar, receipt, Communication or Document reflecting your whereabouts during the calendar years 2006-2007.
24. Any Documents reflecting Your medical, mental health or emergency care or other treatment for any eating disorder, malnourishment, kidney malfunction, emotional problems, psychological or psychiatric disorders, sexually transmitted diseases, and therapy records, and any prescriptions for any of the above categories.
25. Any Documents containing any Communications You have had with any law enforcement agency.
26. Any Documents that reflect any criminal charges, tickets, summonses, arrests, investigations concerning You or witnessed by You.
27. Any Documents containing any statement regarding Your experience or contact with Virginia Roberts, Ghislaine Maxwell, Jeffrey Epstein, Natalya Malyshev, Sarah Kellen, and Nadia Marcincova, including without limitation any Communication with anyone, any diary, journal, email, letter, witness statement, and summary.
28. Any civil complaint or civil demand filed by You or on Your behalf by which You have ever sought damages or compensation of any form or nature.

29. A copy of Your most recent paycheck, paycheck stub, earnings statement and any bank statement, credit card statement and any Document reflecting any money owed by You to anyone.
30. A copy of your Facebook, Instagram, Twitter, and any other social media application or program for the years 2006-2007 and from 2015 – present.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Virginia L Giuffre,  
Plaintiff

Case No. 15-cv-07433-RWS

v.

Ghislaine Maxwell,  
Defendant

\_\_\_\_\_ /

**JEFFREY EPSTEIN'S MOTION TO QUASH TRIAL SUBPOENA**

Jeffrey Epstein, a non-party to the above captioned action, has been subpoenaed to testify at the trial of this case, being commanded to appear on May 15, 2017.<sup>1</sup> He now moves to quash that subpoena for the reasons set forth herein.

Mr. Epstein was deposed by the parties on November 10, 2016. At that deposition, he asserted his Fifth Amendment privilege and declined to answer all substantive questions posed to him during the deposition. The validity of his assertion of the privilege has already been the subject of extensive litigation in this case, with this Court ruling that, as to questions which the parties sought to compel him to answer, Mr. Epstein's assertion of the privilege was valid and proper. Order, February 2, 2017 (under seal).<sup>2</sup> Mr. Epstein's good faith basis for his assertion of his Fifth Amendment privilege remains unabated. As plaintiff is well aware, it is Mr. Epstein's intention, if he is called as a witness at the trial of this case, to once again assert his Fifth Amendment privilege

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<sup>1</sup> Mr. Epstein agreed to have his attorney accept service of the subpoena but, in so doing, reserved his rights to move to quash the subpoena on any and all grounds.

<sup>2</sup> As to other questions that the parties sought to compel Mr. Epstein to answer, the Court concluded that the information sought was irrelevant. *Id.* at 13. The upshot of the Court's ruling was that Mr. Epstein was not required to answer any of the questions to which the parties sought to compel his answers.

in response to questioning, and his assertion of the privilege at trial will be no less valid than it was at his deposition. Under the circumstances of this case, this Court should not require Mr. Epstein to physically appear to assert his Fifth Amendment privilege in front of the jury.

While it may be true that there is no blanket prohibition in all civil cases against calling a witness who will assert his Fifth Amendment privilege, *see, e.g., Brinks, Inc. v. City of New York*, 717 F.2d 700, 708-10 (2d Cir. 1983); *see also LiButti v. United States*, 107 F.3d 110 (2d Cir. 1997), neither is it the rule that it should be permitted in all such cases. Instead, the propriety of requiring a witness to appear at trial to invoke his Fifth Amendment rights in front of a jury must be evaluated on a case-by-case basis. “The trial judge maintains discretion under Fed. R. Evid. 403 to control the way in which non-party claims of privilege reach the jury.” *RAD Servs., Inc. v. Aetna Cas. & Sur. Co.*, 808 F.2d 271, 272 (3d Cir. 1986), *quoted in LiButti*, 107 F.3d at 122. *See Evans v. City of Chicago*, 513 F.3d 735, 740-41 (7th Cir. 2008)(finding no abuse of discretion in district court’s refusal to permit plaintiff to “maximize and dramatize the moment” by calling witness to assert Fifth Amendment privilege in front of jury); *see also Brinks*, 717 F.2d at 715 (Winter, J., dissenting)(decrying the “invitation to sharp practice” inherent in “permitting the systematic interrogation of witnesses on direct examination by counsel who knows they will assert the privilege against self-incrimination”).

Here, Mr. Epstein submitted to deposition under oath and recorded on video. At that deposition, the parties had an unlimited opportunity to examine him at length, asking approximately 600 separate questions, to all of which Mr. Epstein asserted his Fifth Amendment privilege. No different result would obtain were Mr. Epstein forced to take the stand and assert his Fifth Amendment privilege in front of the jury. Plaintiff seeks to call Mr. Epstein as a witness in the hope

not of eliciting substantive testimony but of obtaining adverse inferences against defendant Maxwell based on Mr. Epstein's assertion of the Fifth Amendment privilege with respect to various questions. Whether or not such adverse inferences are appropriate under the circumstances of this case is currently being litigated between the parties and will be decided by this Court. As explained below, requiring Mr. Epstein to appear before a jury to answer the very same questions as to which he has already asserted his Fifth Amendment privilege during sworn video-recorded testimony will add nothing to the ultimate issue of whether any adverse inference should be permitted, nor would it make any potential adverse inference any more or less valid.

The Second Circuit has identified four factors which are relevant to the determination as to whether courts should permit juries to draw adverse inferences against a party based on a witness' invocation of his Fifth Amendment privilege:

*1. The Nature of the Relevant Relationships:* While no particular relationship governs, the nature of the relationship will invariably be the most significant circumstance. It should be examined, however, from the perspective of a non-party witness' loyalty to the plaintiff or defendant, as the case may be. The closer the bond, whether by reason of blood, friendship or business, the less likely the non-party witness would be to render testimony in order to damage the relationship.

*2. The Degree of Control of the Party Over the Non-Party Witness:* The degree of control which the party has vested in the non-party witness in regard to the key facts and general subject matter of the litigation will likely inform the trial court whether the assertion of the privilege should be viewed as akin to testimony approaching admissibility under Fed. R. Evid. 801(d)(2), and may accordingly be viewed, as in *Brink's*, as a vicarious admission.

*3. The Compatibility of the Interests of the Party and Non-Party Witness in the Outcome of the Litigation:* The trial court should evaluate whether the non-party witness is pragmatically a noncaptioned party in interest and whether the assertion of the privilege advances the interests of both the non-party witness and the affected party in the outcome of the litigation.

*4. The Role of the Non-Party Witness in the Litigation:* Whether the non-party witness was a key figure in the litigation and played a controlling role in respect to any of its underlying aspects also logically merits consideration by the trial court.

*LiButti*, 107 F.3d at 123-24 (italics in original). In her motion seeking to present Mr. Epstein's assertions of his Fifth Amendment privilege in response to various questions, plaintiff has argued why these factors should result in adverse inferences against defendant Maxwell, *see* Plaintiff Giuffre's Motion to Present Testimony from Jeffrey Epstein for Purposes of Obtaining an Adverse Inference ("Motion to Present Epstein Testimony") at 10-13, and defendant Maxwell has argued why they should not, *see* Defendant's Response in Opposition to Plaintiff Giuffre's Motion to Present Testimony from Jeffrey Epstein for Purposes of Obtaining an Adverse Inference ("Opposition to Motion to Present Epstein Testimony") at 2-11. Requiring Mr. Epstein to appear personally to assert his Fifth Amendment privilege in front of the jury has no potential whatsoever to add to or detract from either plaintiff's arguments in favor of an adverse inference or arguments in opposition presented by defendant Maxwell. These factors all present questions which can be determined entirely independently of Mr. Epstein's appearance as a witness at trial. Plaintiff appears to recognize as much, as she makes no distinction in her motion between live testimony and deposition testimony; indeed, plaintiff indicates in her motion that, if Mr. Epstein were to appear as a witness, she would put the very same questions to him as she did at his deposition. *See id.* at 4 ("Ms. Giuffre now intends to call Epstein to ask him *these same questions*, either live an in-person if he honors a trial subpoena served on his legal counsel, or, if he fails to appear, via deposition testimony such as the designations just discussed" (emphasis added)). Indeed, in *LiButti* itself, the issue was the admissibility of the witness' deposition testimony and the extent to which, if any, adverse inference inferences should be drawn from the witness' invocation of the Fifth Amendment at his deposition. Nothing will be added to the adverse inference inquiry by requiring Mr. Epstein to appear personally and reassert his Fifth Amendment privilege in front of the jury, nor would the jury be aided in

determining whether to draw any adverse inferences it is permitted to consider by seeing Mr. Epstein assert the privilege in live testimony in front of it, rather than by seeing him do the same thing in his video deposition.

Adverse inference issues are often submitted to the jury based on deposition testimony rather than on live invocation of the privilege in front of the jury, *see, e.g., SEC v. Jasper*, 678 F.3d 1116, 1125 (9th Cir. 2012); *RAD*, 808 F.2d at 272; *Data Gen. Corp. v. Grumman Sys. Support Corp.*, 825 F. Supp. 340, 352 (D. Mass. 1993); *East Coast Novelty Co. v. City of New York*, 842 F. Supp. 117, 121 (S.D.N.Y. 1994); *Penfield v. Venuti*, 589 F. Supp. 250, 255-56 (D.Conn. 1984), and, should this Court determine that the jury may consider whether an adverse inference is appropriate with respect to any particular questions asked of Mr. Epstein, then the use of Mr. Epstein's video deposition testimony is the procedure which should be followed in this case.

While requiring Mr. Epstein to invoke his Fifth Amendment privilege in front of the jury will yield not even a marginal benefit to either party, there are substantial countervailing concerns that weigh heavily against requiring Mr. Epstein to appear at trial. First, Mr. Epstein's personal appearance would likely generate substantial media attention which would threaten to undermine the parties' rights to a fair trial, a result which neither plaintiff or defendant could legitimately welcome. Second, requiring Mr. Epstein's personal appearance would impose an undue and unnecessary burden on him. Mr. Epstein is not a resident of New York; on the contrary, as both parties know, he resides in the Virgin Islands.<sup>3</sup> Because Mr. Epstein's assertion of his Fifth Amendment privilege at

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<sup>3</sup> Mr. Epstein's residence in the Virgin Islands provides an additional reason why Mr. Epstein should not be required to appear at the trial of this case. Mr. Epstein spends a majority of his time in the Virgin Islands, which is his legal residence. He does not, therefore, reside within 100 miles of the place of this trial. *See generally* Fed. R. Civ. P. 45(c)(1)(A).



his video deposition is the functional equivalent of an in-person assertion, the distance of travel required and the expenses which would be incurred—here, not just the cost of travel to New York but also additional legal fees for representation during his testimony—would impose a substantial and unwarranted burden on Mr. Epstein.

Fed. R. Civ P. 45(d)(3)(A)(iv) provides that the court for the district where compliance is required must quash a subpoena that “subjects a person to undue burden.” “An evaluation of undue burden requires the court to weigh the burden to the subpoenaed party against the value of the information to the serving party.” *Travelers Indem. Co. v. Metro. Life Ins. Co.*, 228 F.R.D. 111, 113 (D. Conn. 2005). “Whether a subpoena subjects a witness to undue burden within the meaning of [Rule 45(d)(3)(A)(iv)] ‘depends upon such factors as relevance . . . and the burden imposed.’” *Garneau v. Paquin*, 2015 WL 3466833, at \*3 (D. Conn. June 1, 2015), quoting *In re Application of Operacion y Supervision de Hoteles, S.A.*, 2015 WL 82007, at \*4 (S.D.N.Y. Jan. 6, 2015). See *Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998)(“concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs”). Here, forcing Mr. Epstein, a nonparty, to travel to New York to assert his Fifth Amendment privilege in front of the jury would add no “value” to either plaintiff’s or defendant’s case beyond whatever may be afforded by Mr. Epstein’s assertion of his Fifth Amendment privilege at his video deposition, nor would Mr. Epstein’s personal appearance at trial add anything of relevance to the parties’ cases beyond that which the jury could observe in Mr. Epstein’s video deposition testimony. Given the wholesale lack of value or relevance of Mr. Epstein’s personal appearance before the jury, the burdens to which such an appearance would subject him should be controlling. This is

particularly true when the spectre of this trial's becoming even more of a media event is factored into the analysis.<sup>4</sup>

Plaintiff also argues in her motion that she should be permitted to call Mr. Epstein as a witness to forestall the possibility that the jury would find it odd that she had not called Mr. Epstein to testify. Motion to Present Epstein Testimony at 13-15. As defendant argues in the Opposition to Motion to Present Epstein Testimony:

To the extent a jury wonders why Mr. Epstein is not called by Plaintiff, they will also wonder why Ms. Maxwell is not calling him if he has exonerating information. There are a myriad of reasons why a witness may or may not testify or why evidence may or may not be presented at trial. Fortunately, this is a problem that is easily remedied through jury instructions.

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<sup>4</sup> Mr. Epstein has been, and continues to be, the subject of extensive publicity, much of it salacious. A Google search for "Jeffrey Epstein" returns 508,000 entries, the most recent of which center on the new nominee for Secretary of Labor, Alexander Acosta, who, when he was United States Attorney for the Southern District of Florida, approved Mr. Epstein's nonprosecution agreement. *See, e.g.*, New York Daily News, "Labor Secretary nominee Alexander Acosta gave 'sweetheart deal' to sex offender Jeffrey Epstein," February 16, 2017, available at <http://www.nydailynews.com/news/national/labor-pick-acosta-gave-sweetheart-deal-sex-offender-epstein-article-1.2975065> (last visited February 17, 2017); Politico, "Trump's Labor nominee oversaw 'sweetheart plea deal' in billionaire's underage sex case," February 16, 2017, available at <http://www.politico.com/story/2017/02/alexander-acosta-trump-jeffrey-epstein-plea-235096> (last visited February 17, 2017). Mr. Epstein's name has been widely linked in the press with prominent individuals such as Donald Trump, Bill Clinton, Prince Andrew. *See, e.g.*, New York Post, "The 'sex slave' scandal that exposed pedophile billionaire Jeffrey Epstein," October 9, 2016, available at <http://nypost.com/2016/10/09/the-sex-slave-scandal-that-exposed-pedophile-billionaire-jeffrey-epstein/> (last visited February 17, 2017); Newsweek, "Jeffrey Epstein: the Sex Offender Who Mixes with Princes and Premiers," January 29, 2015, available at <http://www.newsweek.com/2015/02/06/sex-offender-who-mixes-princes-and-premiers-302877.html> (last visited February 17, 2017). He is the subject of a recently released book by best-selling author James Patterson titled *Filthy Rich: A Powerful Billionaire, the Sex Scandal that Undid Him, and All the Justice that Money Can Buy - The Shocking True Story of Jeffrey Epstein* (Little, Brown & Co. October 10, 2016). His personal appearance at the trial of this case would predictably be the focus of massive media attention, of both the mainstream and gutter variety.

Opposition to Motion to Present Epstein Testimony at 15. Moreover, presenting Mr. Epstein's deposition testimony in which he asserted his Fifth Amendment privilege in response to questioning regarding plaintiff's allegations would completely alleviate this concern, as the jury would know from that testimony exactly "what Epstein . . . has to say about all this." Motion to Present Epstein Testimony at 14. There is no indication in *Cerro Gordo Charity v. Fireman's Fund Am. Life Ins. Co.*, 819 F.2d 1471 (8th Cir. 1987), on which plaintiff relies, *id.* at 14-15, that deposition testimony of the witness was available in lieu of personal appearance before the jury to assert the Fifth Amendment privilege. The Court, stressing that the determination must be made on a case-by-case basis, *id.* at 1481, concluded that there was no error in permitting the witness to be called even though he had indicated that he would assert the privilege because

[h]earing Richards invoke the privilege informed the jury why the parties with the burden of proof, i.e., the insurance companies, resorted to less direct and more circumstantial evidence than Richards' own account of what had occurred. . . . Otherwise, the jury might have inferred that the companies did not call Richards to testify because his testimony would have damaged their case.

*Id.* at 1482. Even a limited use of Mr. Epstein's deposition testimony would serve these purposes equally well, as the jury would be left in no doubt as to why the plaintiff had not called Mr. Epstein as a witness.

Finally, defendant Maxwell has argued in her Opposition to Motion to Present Epstein Testimony that to the extent any questions posed to Mr. Epstein in his deposition might have been relevant to the issues in this case, presenting those questions and Mr. Epstein's responsive Fifth Amendment invocation to the jury would be substantially more prejudicial than probative:

As to any questions regarding Ms. Maxwell or Plaintiff, the questions are severely more prejudicial than probative, designed only to confuse and mislead the jury into making a determination on an improper basis. The *LiButti* court and subsequent decisions have been

quite clear that the types of questions posed to Mr. Epstein, leading pejorative questions, designed to suggest that the answer would be yes, are precisely the types of questions that should be excluded from evidence under 403.

Opposition to Motion to Present Epstein Testimony at 12. Requiring Mr. Epstein's live Fifth Amendment invocation in front of the jury in response to the very same questions would be no less prejudicial and no more probative and would provide no independent basis to justify the burdens it imposes on Mr. Epstein or the damage to the integrity of the trial which will likely result from the media circus generated by Mr. Epstein's personal appearance.

### **CONCLUSION**

For all the foregoing reasons, Mr. Epstein's Motion to Quash should be granted.

Respectfully submitted,  
JEFFREY EPSTEIN  
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**CERTIFICATE OF SERVICE**

I, Martin G. Weinberg, hereby certify that on this 3rd day of March, 2017, I electronically filed the foregoing Motion with the Clerk of the Court using the CM/ECF system, thus effecting service on counsel of record:

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